United States Court of Appeals

for the Second Circuit

APPENDIX

76-5014

United States Court of Appeals

FOR THE SECOND CIRCUIT

B

In the Matter of

ALRAC CORPORATION f.d.b.a.,
RADIATION RESEARCH CORPORATION
f.d.b.a., THE ALRAC COMPANY,

Debtor.

CARL E. BARNES,

Appellant,

v.

ALRAC CORPORATION,

Debtor-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

UNITED STATES COURT OF APPEALS
FILED
JUN 10 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

JOINT APPENDIX

ROBERT C. BELL, JR.
Attorney for Appellant
528 Main Street
New Canaan, Connecticut 06840
(203) 966-1994

AMEND & AMEND
Of Counsel to Attorney for Appellant
40 Wall Street
New York, N. Y. 10005
(212) 425-4230

BROWNSTEIN, DI PIETRO & KANTROVITZ, P.C.
Attorneys for Debtor-Appellee
900 Chapel Street
New Haven, Connecticut 06510
(203) 865-4155

PAGINATION AS IN ORIGINAL COPY

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CREDITORS':

CARL E. BARNES

Direct..... A129

Cross..... A202

DEBTOR'S:

HARVEY WOLFE

Direct..... A250

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DAVID GRACE

Direct..... A268

(Recalled)
Direct..... A293

COURT'S:

CHEEVER TYLER

Direct..... A282

A 1

DOCKET ENTRIES

Sach, Sachs & Sachs
99 Cherry St.
Milford, Conn.

Harvey Wolfe, Esq.
1540 Broadway
New York, New York

Gerard Mandelbaum, Esq.
516 Fifth Ave.
N.Y., N.Y. 10036

c/o Dermott & Cutler
728 Mendocino Ave
Santa Rosa, Cal. 95401

NAME OF BANKRUPT/DEBTOR: ALRAC CORPORATION

A Delaware Corporation (known also within the last six years as Radiation Research Corporation).

ADDRESS OF BANKRUPT/DEBTOR: 649 Hope Street

CITY: Stamford | ZONE: | COUNTY: Fairfield | STATE: Conn.

DIST. NO. 205 | DIV. 5 | DOCKET NO. B-74-399

CHAPTER OR SECTION: I-VII

DATE PETITION FILED: Aug. 12, 1974

DATE CLOSED:

DISCHARGE: Granted / Denied / Waived

DATE DISCHARGED:

PETITION DISMISSED: YES | DATE DISMISSED:

NAME OF DISTRICT JUDGE:

NAME OF BANKRUPTCY JUDGE: ROBERT E. TREVETHAN

CHECK: X Involuntary; X Corporation

OCCUPATION: X Other (Business)

	NAMES AND ADDRESSES
ATTORNEY FOR BANKRUPT OR DEBTOR	Andrew DiPietro, Esq. 865-4155 Gerald Brownstein, Esq. 900 Chapel St. New Haven, Conn.
ATTORNEY FOR PETITIONING CREDITORS	Lewis & Dunn, Esqs., 600 Summer Street, Stamford, Connedticut
RECEIVER	CO-COUNSEL FOR CREDITORS COMMITTEE: John H. Krick, Esq., 900 Chapel St. New Haven, Conn. and Cheever Tyler, Esq., 205 Church St., New Hav en, Conn.
ASSIGNEE	Distributor: Andrew DiPietro, Esq.
SUCCESSOR	[illegible], 900 Chapel Street, New Haven, Ct.
TRUSTEE	
ATTORNEY FOR TRUSTEE	

CHANGES OF PRINCIPALS

UNITED STATES COURT OF APPEALS FILED MAY 10 1976 SECOND CIRCUIT

DATE	PROCEEDINGS
1974	
8/12	Creditors Petition filed at 10:25 A.M.
8/12	Summons issued, answer to be filed on or before August 27, 1974. (MARKOWSKI, C.) and handed to Creditors Attorney for service.
8/12	Order of Reference, entered. (MARKOWSKI, C.) Attested copy thereof, together with copy of Creditors Petition and copy of Summons forwarded to the Bankruptcy Judge. M-
8/20/74	Chapter XI Petition In Pending Case
8/20/74	Petition to employ attorney under general retainer and ORDER
8/20/74	Petition of debtor for authority tocontinue the operation of the business as debtor-in-possession and ORDER

FORM OB 74 OCT 1970

UNITED STATES DISTRICT COURTS
BANKRUPTCY DOCKET

XX CHECK THIS BOX IF FILING FEES WERE PAID IN FULL AT THE TIME OF FILING

BEST COPY AVAILABLE

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Docket Entries

DATE	PROCEEDINGS
8/20/74	Petition to affirm and adopt agreements
8/20/74	Petition to authorize borrowing of money and issuance of a certificate of indebtedness
8/20/74	Notice of hearing on application of the debtor-in-possession to adopt and affirm three contracts and to authorize the issuance of a certificate of indebtedness - 8/26/74 2:30 p.m.
8/22/74	Answer to creditors' petition
"	Return of service
8/23/74	Opposition to adoption and affirmation of contracts and request for 60-day stay of proceedings
8/27/74	Special Order of Reference
(450) 8/27	NOTICE TO CREDITORS of hearing on Applic. fo the Debtor to Adopt and Affirm 3 Contracts and to Authorize the Issuance of a Certificate of Indetedness
9/6	Answer of Carl Barnes and Sarah Barnes in Opposition to Petition to Affirm and Adopt Agreements
9/6	Affidavit in Opposition to the Petition of the Debtor-in-Possession to Affirm and Adopt Agreements
9/6	Hearing hel on Applic. to Adopt 3 Contracts and to Authorize Issuance of Certificate of Indebtedness
9/6	Order to Authorize Borrowing of Money and Issuance of a Certificate of Indebtedness
9/6	Order Authorizing Affirmation of 3 Contracts (order to be submitted)
9/6-1	Order Authorizing 3 Contracts between Debtor and Chevron Research Corp. be Adopted & Affirmed
9/9-2	Application & Order for Extension of Time to October 4, 1974 within which Debtor-in-Possession must file complete Schedules and Statement of Affairs
9/12-3	AMENDED ORDER that the Agreements (3) with Chevron Research Corp. may be Adopted and Affirmed by Alrac Corp. and the Same is Ratified
9/16-4	Application & Order Extending Time Within Which to Take Appeal of Carl E. and Sarah E. Barnes to September 26, 1974
9/27-5	Application & Order Extending Time Within Which to Take Appeal to October 6, 1974 (Copies: Internal Revenue Ser. Secretary of Treasury
10/8	Schedules and Statement of Affairs Filed Securities Exhange Comm.)
10/9	Debtor-in-Possession Report for September, 1974
10/10	Order Segregating Taxes (Copies to Internal Revenue Service Atty. for Debtor)
10/[illegible]-6	Petition & Order Authorizing Borrowing of Money and Issuance of a Certificate of Indebtedness
11/1	Plan filed
(450) 11/1	NOTICE TO CREDITORS of 1st meeting on November 22, 1974 at 2:00 P.M. Acceptance on December 6, 1974 at 2:00 P.M., Confirmation on December 20, 1974 at 2:00 P.M. and last day for filing complaints, January 22, 1974. Plan mailed with notice to creditors. (Copies to Internal Revenue, SECC, Sec. of Treasury)

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Docket Entries

ALRAC CORP. B-74-349 (LOCKET NUMBER)

DATE	PROCEEDINGS
1974	
11/4-7	Petition & Order to Authorize Borrowing of Money for Maintenance of Patents, Issuance of a Certificate of Indebtedness, and Order Thereon
11-13-74	Appearance entered by Irving Gaboob, P.C. for BASF Wyandotte Corp.
11/13-8	Application To Stay Suit of Hartford National Bank & Trust Company
11/20-	Objections to Arrangement by Carl & Sarah Barnes
11/20-9	Application For Leave to Propose Immaterial Modifications of Arrangement APPROVED - Copies Sent to SEC, IRS, and Secretary of Treasury (MGO)
** 11/20-10	Applic. & Order to s/cause re applic. to stay suit of HNB on 12/6/74 at 2:00 p.m.
11/22	First meeting held-continued 1st & accept. on 12/6/74 at 2:00 p.m.
11/22	Complaint of Alrac Corporaton filed v. Carl Barnes(t/o) see sub-docket
11/21	Amendment to Schedule A-3 & list of executory contracts
11/22	Affidavit of Service with respect to applic. to stay suit of HNB and Order to s/cause.
11/27-12	Objections to classification of creditors in Arrangement pursuant to Section 351 of the Bankruptcy Act.
12/6-11	Petition & Order to Authorize Borrowing of Money for Maintenance of Patents, Issuance of a Certificate of Indebtedness, and Order Thereon
12/6	con't 1st & accept. held-continued to 12/20/74 at 2:00 p.m.
12/6-12A	Motion of Barnes and Barnes to disallow ~~xxx~~ classification of Class I and Class 2 creditors in plan-DENIED-
12/6-13	JUDGMENT Entered - Defendant admitted allegations and agrees to turnover of property to Trustee. - Cert. Copies Mailed to Evans & Brownstein $3.00
12/9-14	APPLICATION & ORDER Authorizing Retention of Co-Counsel to Creditors' Committee (Cheever Tyler, Esq. and John H. Krick, Esq.)
12/10	Application to Convert To Chapter X & Order to Show Cause on 12/20/74 at 2:00 p.m. (Affidavit of Carl Barnes and Sarah Barnes, Motion to Dismiss and for stay of proceedings, Affidavit of Louis Evans and Robert Evans In Support of Order to Show Cause, Order to Show cause with stay)
12/16-14A	Answer to Motion to Dismiss and For Stay of Proceedings.
12-19-74	Debtors report for November 1974
12/19-15	Memorandum of Debtor In Opposition to Motion to Dismiss and For Stay of Proceedings
12/19-16	Affidavit of Harvey G. Wolfe In Opposition to Motion to Dismiss and Stay of Proceedings
12/20-17	Memorandum by First National City Bank In Opposition to Motion To Dismiss and Stay of Proceedings
12/20-18	Affidavit of David R. Grace in Opposition to Motion to Dismiss.
12/20-19	Affidavit of David A. Wakeman in Opposition to Motion to Dismiss.

FORM BK 74-E (REV. 1/65) UNITED STATES DISTRICT COURT

BANKRUPTCY DOCKET CONTINUATION

Docket Entries

DATE	PROCEEDINGS	
1974.		
12/20-20	Complaint of Carl E. and Sarah E. Barnes Objecting to Confirmation of Plan	
12/20-21 ***	Application By First National City Bank, As Indenture Trustee, For Allowance of Compensation and Disbursements	
12/24-22 **	Amended Computation Re Class I Creditors	
12/20	PLAN ACCEPTED - Hrg. on Confirmation & Motion To Transfer continued to 12/26/74 at 11:00 a.m.	
12/26-23	PROPOSED AMENDMENT TO PLAN	
12/30-24	MEMORANDUM AND ORDER Re: Barnes Motion to Dismiss or Transfer to A Chapter X - DENIED - Cert. Copies Mailed to Attys. Robert Evans, Gerald Brownstein and Atty. Miller	$24.00
12/31-25	Application & Order Authorizing and Directing Return of Moneys Advanced for Deposit by Chevron Research Company	
12/31-26	ORDER CONFIRMING PLAN - Cert. Copies Mailed to Attorneys Robert Evans, Gerald Brownstein and Atty. Miller	$7.50
12/31-27	Order appointing distributor-cert. copies.	$4 50
12/31	Computation of Deposit	
12-31-74	Application for allowance (J. Fiske) for Chevron; proof filed as admin. claim	
1975		
1/3	NOTICE TO CREDITORS of confirmation and last day for filing claims	
1/3 (471)	Letter setting hearing on Applic. for allow. of First National City Bank on 1/17/75 at 2:00 p.m.	
1/8 (1)	NOTICE OF APPEAL filed by Carl Barnes from order dismissing motion that case proceed under Chapter X and dismissing Chapter XI copies sent to Brownstein & DiPietro, Esqs. Atty. for Alrac Corp.; John Krick, Esq., Atty. for Creditors' Committee; Cheever Tyler, Esq., Co-Counsel for Creditors' Committee; Sherman & Sterling, Esqs., Atty. for First Nat'l. City Bank; Weil, Gotschal & Manges, Esqs., Att: Harvey R. Miller; Chevron Research Co., Att: J. A. Buchanan, Jr.; Chevron Chemical Co. Att: L. L. Powell; and Pillsbury, Madison & Sutro, Esqs., Att Marvin Heileson, Esq., Attys. for Chevron Research Co. and Chevron Chemical Co. (C.D) and Carl Barnes (C.D)	
1/8 (2)	NOTICE OF APPEARL filed by Carl Barnes from order entitled "Order Confirming Plan" - copies sent to Brownstein & DiPietro, Esqs., Counsel for Alrac Corp.; John Krick, Esq., Atty. for Creditors' Committee of Alrac Corp.; Cheever Tyler, Esq., CO-Counsel for Creditors' Committee; Sherman & Sterling, Esqs., Atty. for the First Nat'l. City Bank; Weil, Gotschal & Manges, Esqs., Att: Harvey R. Miller, Esq.; Chevron Research Co., Att: J. A. Buchanan, Jr.; Chevron Chemical Co., Att L. L. Powell; Pillsbury, Madison & Sutro, Esqs., Att Marvin Heileson, Esq., Attys. for Chevron Chemical Co.; (C.D) and Carl Barnes (C.D)	
1-10	Distributor's report $259,000.00	

FPI 81—0-20-70-755-5149

Docket Entries

DATE	PROCEEDINGS
1975	
1/17	Hrg. on Applic. for Allowance of First National City Bank continued to 2/14/75 at 2:00 p.m.
1/17	Designation of Contents for inclusion in the Record on Appeal of Carl Barnes from order dismissing motion that case proceed under Chapter X and dismissing Chapter XI and Statement of Issues
1/17	Appellant's Designation of Contenes for Inclusion in the Record on Appeal of Carl Barnes from order entitled "Order Confirming Plan" and Statement of Issues
1/22	Appellee's Designation of Contents for Inclusion in the Reocord on Appeal (Gerald Brownstein, Esq.)
1/22	Complaint of Carl & Sarah Barnes (Nondisch.) filed see sub-docket
1/23-28	Withdrawal of "Special Order of Reference) and assigning bankruptcy case to Judge Seidman.
1/23-29	AMENDMENT TO MEMORANDUM & ORDER DISMISSING APPLICATION TO TRANSFER TO CHAPTER X
1/27	Appilee's Designation of Contents for Inclusion in the Record on Appeal (Andrew M. DiPietro, Jr., Esq.)
2/11-30	Application for Reimbursement of Expenses by Creditors' Committee
2/18	Notice of Appeal and Designation of Contents from order dismissing motion that case proceed under Chapter X and dismissing Chapter XI transmitted to Clerk
2/18	Notice of Appeal and Designation of Contents from order confirming Plan transmitted to Clerk
3/13	Appearance of Robert C. Bell, Jr., Esq. as Attorney for Carl E. & Sarah E. Barnes
3/21/75	APPLICATION FOR ALLOWANCE as secretary to creditors committe (R.W. Otte)
3/27-31	Application & Order To Invest Portion of Deposit In Certificates of Deposit of Second New Haven Bank
4/9/75	Second accounting of trustee (Brownstein)
4/10-32	MEMORANDUM & ORDER Re: Complaint of Carl Barnes and Sarah Barnes - Dismissed and Debt of Carl and Sarah Barnes Declared Dischargeable - Cert. Copies Mailed to Attys. Brownstein and Bell $3.00
5/5/75-33	MEMORANDUM & ORDER Re: Application of First National City Bank, Indenture Trustee, For Allowance of Compensation and Disbursements as Administration Expense - DENIED- Cert. Copies Mailed to Attys. Gerald W. Brownstein (Debtor and Clarence W. Olmstead (First National City Bank) $17.00
6/30	Photocopy of Hartford National Bank & Trust Co's Proof of Claim Made for Atty. Boownstein $5.50

Docket Entries

DATE	PROCEEDINGS	
6/30	Comp. filed by Carl & Sarah Barnes - see sub docket Motion to revoke confirmation	
9/5	Petition & order by Laurence DeWitt to show cause why Harvey Wolfe should not be directed to call an Annual Stockholders meeting of Alrac - hearing on 10/2/75 at 2:00 PM	
9/30-34	Application & Order to Show Cause (William A. Clement - Simon Mickler - Creditors' Committee of Alrac Corporation) Why An Order Should Not Be Made to Stay Action and Defer Shareholders Meeting on 10/6/75 at 2:30 P.M.	
10/6-	Affidavits of Service on Cheever Tyler, Esq., John B. Marsh, Jr., Esq and Shearman & Sterling, Esqs.	
10/6	MEMORANDUM OF LAW IN SUPPORT OF APPLICATION OF ALRAC CORPORATION For An Order Enjoining William Clement and Simon Mickler From Compelling Alrac to Call an Annual Meeting of Shareholders and Declaring That Annual Meeting Be Deferred Subject to Further Order of the Court	
10/6	Trial Memorandum and Memorandum in Opposition to Motion to Quash	
10/14-35	MEMORANDUM & ORDER Re:(Carl & Sarah Barnes v. Debtor) Granting Defendant's Motion to Dismiss and Entering Judgment for Defendant-Cert. Copies Mailed to Attys. Brownstein and Bell (MBP)	$3.00
10/22-36	MEMORANDUM & ORDER Re: Application to Enjoin Prosecution of Mandamus Action (Alrac Corp. v. William A. Clement and Simon Mickler) Restraining Clement & Mickler from Further Prosecution of Action Pending in Superior Court of State of Conn. Or Any Other Action Seeking to Enforce Calling of Annual Stockholders' Meeting Until Appeal Is Finally Determined Cert. Copies to Attys. Brownstein, Fitzpatrick, Moger, Tyler, and Krick	$17.50
10/23-37	ORDER Re: Application Of Laurence DeWitt For An Order Directing The Call of an Annual Meeting of Stockholders - Denied - Without Prejudice To Renew Application After Appeal Pending in U.S. District Court is Decided - Cert. Copies to Attys. Brownstein, Fitzpatrick, Tyler, and Krick	$6.00
) 11/3	NOTICE OF APPEAL filed by Lane, Jacques & Mosher, attys. for William A. Clement and Simon Mickler, defendants on Memorandum & Order dated 10/22/75 (copies sent to Gerald W. Brownstein, Esq., 900 Chapel St., New Haven, Ct.; Cheever Tyler, Esq., 205 Church St., New Haven, Ct.; John H. Krick, Esq., 900 Chapel St., New Haven, Ct.; Shearman & Sterlin, 53 Wall St., N.Y.C.; John T. Fitzpatrick, Esq. 1238 Post Rd., Fairfield, Ct.; Weil, Gotshal & Manges, 767 Fifth Ave., N.Y.C.) (C.D)	
11/10	Designation of Contents for Inclusion in Record on Appeal and Statement of Issues to be Presented on Appeal filed by Appellant on Appeal of William A. Clement & Simon Mickler	

FPI 81—6-28-76-788-8148

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Docket Entries

ALKAC CORPOR .ION — 4 14-377 DOCKET NUMBER

DATE	PROCEEDINGS
1975	
12/3	Plaintiff's Designation of Additional Papers to be Included in Record on Appeal on Appeal of William A. Clement & Simon Mickler
12/8	Notice of Appeal filed by William A. Clement and Simon Mickler together with Designation of Contents for Inclusion in Record on Appeal & Statement of Issues transmitted to Clerk
12/10-38	Motion for Amendment to Schedule to Include Zurich Ins. Company
12/29-39	AMENDED Memorandum & Order Re: Application To Enjoin Prosecution of Mandamus Action
1976	
1/9-40-41	Stipulation and Order Directing Deposit of Monies With Court-Appointed Disbursing Agent
2/26	Two comp. filed by HNB - see sub dockets (R/P) (relief from stay)
3/18-42	JUDGMENT Entered (HNB v. Debtor - Relief From Stay) For Plaintiff to Proceed With A Pending Foreclosure - Copies to Attys. Siegel and DiPietro.
3/31-43	ORDER approv. appt. of successor distributor as Andrew DiPietro, Esq.
4/5/	Copies of claims register to Brownstein, DiPietro & Kantrowitz, $1.00
4/8	Acceptance by Successor Distributor of appointment

FORM BK 76-E
REV. 1/80

UNITED STATES DISTRICT COURT

BANKRUPTCY DOCKET—CONTINUATION

A 8

Docket Entries

USE REFERRED TO JU[illegible] SEIDMAN Dummy Copy Count as pending in Hrtfd.

NAME OF BANKRUPT/DEBTOR (Last, First, Middle): AIRAC CORPORATION

A Delaware Corporation (known also within the last six years as Radiation Research Corporation).

1. Count as Hartford case
2. Return file to Bpt. when closed
3. Put refund on Bpt. voucher

ADDRESS OF BANKRUPT/DEBTOR (Number and Street): 649 Hope Street

CITY: Stamford | ZONE: | COUNTY: Fairfield | STATE: Conn.

DIST. NO.: 205 | DIV. NO.: 5 | DOCKET NO.: B-74-399

CHAPTER OR SECTION: CHAP. XI -I-VII

DATE PETITION FILED: Aug. 12, 1974

DATE CLOSED:

DISCHARGE: Granted / Denied / Waived

DATE DISCHARGED:

CHECK IF: [ ] Voluntary [X] Involuntary [ ] Joint [X] Corporation

OCCUPATION (Check one): [ ] Farmer [ ] Employee [ ] Professional [ ] Other (Non-business) [ ] Merchant [ ] Manufacturer [X] Other (Business)

PETITION DISMISSED: [ ] YES DATE DISMISSED:

CHAPTER UNDER WHICH CASE WAS PENDING WHEN DISMISSED:

NAME OF DISTRICT JUDGE:

NAME OF BANKRUPTCY JUDGE: *Saul Seidman and ROBERT E. TREVETHAN

	NAMES AND ADDRESSES
ATTORNEY FOR BANKRUPT OR DEBTOR	
ATTORNEY FOR PETITIONING CREDITORS	Lewis & Dunn, Esqs., 600 Summer Street, Stamford, Connecticut
RECEIVER	
ATTORNEY FOR RECEIVER	
TRUSTEE	
ATTORNEY FOR TRUSTEE	

CHANGES OF PRINCIPALS

DATE	PROCEEDINGS
1974	
8/12	Creditors Petition filed at 10:25 A.M.
8/12	Summons issued, answer to be filed on or before August 27, 1974. (MARKOWSKI, C.) and handed to Creditors Attorney for service. M-8/13/74
8/12	Order of Reference, entered. (MARKOWSKI, C.) Attested copy thereof, together with copy of Creditors Petition and copy of Summons forwarded to the Bankruptcy Judge. M-8/13/74
8/20	Form BK-76 Transferring proceeding from Chapters I-VII to Chapter XI., filed.
8/26	SPECIAL ORDER OF REFERENCE, entered, that said case is referred concurrently to both the Honorable Robert E. Trevethan and the *Honorable Saul Seidman, Bankruptcy Judges. (ZAMPANO, J.) M-8/26/74

FORM BK 76 - A OCT. 1973

UNITED STATES DISTRICT COURTS

BANKRUPTCY DOCKET

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Docket Entries

1975

1/21 Withdrawal of Reference and Assignment, entered. ZAMPANO, J.M-1/21/7
(Case withdrawn from Judge Trevethan and assigned to Judge Saul Seidman for convenience of administration, under the provisions of Rule 102(b) of the Rules of Bankruptcy Procedure.

2-18 Record on Appeal re Barnes Motion to Dismiss or Transfer to A Chapter X received from Bankruptcy Office. Copies mailed to counsel with Notice. Appeal #1

2-18 Record on Appeal re Order Confirming Plan received from Bankruptcy Office. Copies mailed to counsel with Notice. Appeal #2

3-13 Notice of Motion and Motion for Extension of Time to File Brief filed by Robert Bell, for Carl and Sarah Barnes. Appeals #1 and #2

3-13 Order of Judge Clarie: "The aforesaid notice shall be sent to the Appellant, Carl E. Barnes personally; he shall have (15) days to file his brief. The Appellee shall respond within 10 days and the Appellant may reply within 5 days. Appeals

3-13 Notice to Counsel mailed to Gerald Brownstein, Esq., Robert Bell, Esq. and #1 and Carl Barnes. Appeals #1 and #2

3-13 Appearance of Robert Bell for Carl and Sarah Barnes Appeals #1 and #2

3-27 Motion for Enlargement of Time to File Briefs. to April 7 "So Ordered" (Clarie, J.) Appeals 1 & M-3-27-75.

4-7 Briefs of Appellant filed by Atty. Bell. Appeals 1 and 2.

4-17 Application for Extension of Time to File Appellee's Briefs to May 1, 1975 So Ordered (Clarie, J.) m-4/21/75. Copies mailed to counsel.

5-1 Application for Extension of Time to File Appellee's Briefs to May 5, 1975 So Ordered (Clarie, J.) M-5/14/75.

5-5 Brief of Appellee re two appeals filed.

5-9 Notice to Counsel Re deadline for request for oral argument mailed to Attys. R. Bell and G. Brownstein.

*5-9 Motion for Enlargement of time (to May19,1975) filed. "Motion granted." TEC m-5-12-75

5-15 Request for Oral Argument filed by Robert Bell. Assigned for June 2, 1975.

5-20 Reply Brief of Appellant, filed.

5-30 Request that oral arguments be presented on June 30, 1975 approved (Clarie, J.) So Ordered. M-6-2-75.

6-25 Motion for Permission for Edmond F. Supple, Esq. to represent Plaintiff-Appellants on Arguments of Appeals, filed. Motion granted

6-25 Affidavit of Edmond F. Supple, filed.

6-25 Motion to admit Harvey R. Miller, Esq. to represent Debtor-Appellee on Arguments of Appeals, filed. Motion granted

6-25 Sur-Reply Brief filed by Appellee.

6-30 Hearing on Appeals held. Decision Reserved. (Clarie, J.) One week granted for submission of briefs.

7-8 Sur-Rebuttal Brief filed by Appellant.

9-23 Transcript of Hearing held in Hartford (Sperber, B.) on June 30, 1975.

12-8 / / / Additional papers to be included in Record on Appeal received from Bnky Office.

12/8/ Notice of Appeal filed by William

12-8 Appeal filed by William A. Clement and Simon Mickler received from Bky. Office and given to Judge Clarie. Notice mailed to Attys. Moger and DiPietro.

12-29 Motion to Dismiss, filed.

* Copies mailed counsel.

1976

2-10 Ruling on Appeal from Orders of the Bankruptcy Judge - Clarie, J. m2-11-76. Copies to counsel. Appeals are denied and dismissed, for reasons set forth in memoranda of Bankruptcy Judge; orders of bankruptcy judge are affirmed.

2/23 Motion For Reconsideration And Rehearing, filed by Appellant Barnes.

2/23 Judgment, entered. MARKOWSKI,C. M-2/23/76.

2/24 Motion (of Appellant Barnes) For Reconsideration And Rehearing, endorsed: "The appellant's motion for reconsideration and rehearing is denied. The issues raised have been previously considered and ruled upon by the Court." "So Ordered." CLARIE,J. M-2/25/76. Copies to counsel: Bell; Brownstein, DiPietro & Kantrovitz; Krick; Tyler; Lynch and Miller.

SEE PAGE 2

Docket Entries

ALRAC CORPORATION 205 5 B-74-399 PAGE 2

DATE	PROCEEDINGS
1970	
3/10	Notice of Appeal, filed by Carl E.Barnes,Appellant. Copy of Notice and Docket Sheet, certified, sent Clerk, U.S.Court of Appeals. Forms C & D, copy of Mgmt. Plan handed Atty.Bell, and copy Notice of Appeal.
3/10	Bond On Appeal of $250.00 (Bank Check), filed.
3/10	Copies of Notice of Appeal sent Attys.Moger,Murphy,Tyler,Krick, Miller, Fitzpatrick and DiPietro.
3/15	Receipt of Notice of Appeal and Docket copy acknowledged by Court of Appeals.
4/19	Contents of The Record on Appeal, filed by Richard Schmeidler, Esq. Amend & Amend, New York.
4/20	Record on Appeal transmitted to New Haven.
4/20	Order extending time within which the Record on Appeal shall be transmitted to the Court of Appeals from 40 days after filing of the Notice of Appeal to 60 days. (Clarie, J.) M 4-20-76. Copies mailed to counsel. (Robt. C. Bell, Jr.; Brownstein, DiPietro & Kantrovitz; Greenfield, Krick & Jacobs; Weil, Gotshal & Manges; and Amend & Amend.

BEST COPY AVAILABLE

A 11

PETITION TO AFFIRM AND ADOPT AGREEMENTS

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

IN THE MATTER OF

ALRAC CORPORATION f.d.b.a.
RADIATION RESEARCH CORPORATION
f.d.b.a. THE ALRAC COMPANY

IN PROCEEDINGS FOR AN
ARRANGEMENT UNDER CHAPTER XI

DEBTOR NO. B-74-399

D. F - 4

PETITION TO AFFIRM AND ADOPT AGREEMENTS

TO: HONORABLE R.E. TREVETHAN, BANKRUPTCY JUDGE

Your Petitioner represents that:

1. On the 20th day of August, 1974, it filed a Petition for relief under Chapter XI of the Bankruptcy Act in a pending bankruptcy case.

2. Your Petitioner desires to operate as debtor-in-possession and the funds necessary to conduct said operations will be made available to it by Chevron Research Corporation, 200 Bush Street, San Francisco, California, under a license agreement, attached hereto as Exhibit A, and an interim consulting agreement between the corporation in Chapter XI proceedings and said Chevron Research Corporation dated August 14, 1974, attached hereto as Exhibit B. The process of making Nylon-4 has not been developed to the point that it is commercially feasible and without the adoption and affirmation of the agreements, the debtor's operations will come to a standstill and any possibility of rehabilitating and reorganizing the debtor will be completely lost.

3. Before these agreements can become effective, they require

that this Honorable Court affirm and adopt the two aforesaid agreements, together with a Suspension Agreement dated August 14, 1974, attached hereto as Exhibit C, and that an Order to that effect be made by this Court within five days subsequent to the filing of the Chapter XI petition.

4. Heretofore your Petitioner has entered into a certain agreement with Chevron Chemical Company and Chevron Research Company pursuant to which said companies were to acquire properties described in the agreement. Because of the financial condition of your Petitioner, it is not practicable to consummate the agreement. The debtor-in-possession is presently totally without funds to maintain an operation. It has prevailed upon Chevron Research Company, subject to the adoption and affirmation of the three aforesaid agreements, to make funds available to it for operations, as therein provided which funds are advances and not a loan. The debtor has no other means available to it for obtaining funds, maintaining its operations and continuing the development of Nylon-4.

5. These three agreements will provide the following:

A. Suspension Agreement (Exhibit C), suspend until December 31, 1974 the implementation and consummation of a closing agreement dated April 24, 1974, which agreement provided for the purchase from Alrac Corporation by Chevron Research Company and Chevron Chemical Company an assignment of certain of the debtor's Nylon-4 patent rights, the grant to Chevron of licenses under other

of the debtor's Nylon-4 patent rights, and the disclosure to Chevron of the debtor's Nylon-4 technical information and technology. The suspended obligations shall be reinstated thereafter provided that no order of confirmation of the Arrangement which the debtor shall propose in these Chapter XI proceedings is obtained on or before December 10, 1974. Also in the event of the entry of an order of adjudication in bankruptcy or dismissal of the proceedings or the failure of the officers and directors of debtor to use their best efforts, then upon notice from Chevron to the debtor, the period of suspension shall expire.

B. An interim consulting agreement (Exhibit A) between the debtor-in-possession and Chevron Research Company by which the debtor-in-possession will receive payments of $20,000 per month for consulting services to be rendered Chevron in the development of Nylon-4 which funds will permit the debtor to pay the salaries of its key employees, rent and other necessary expenses of operating its plant during the pendency of the Chapter XI case. All inventions, discoveries and improvements, patentable and unpatentable, made or conceived by employees of the debtor during this agreement shall belong to Chevron.

C. A license agreement (Exhibit B) between the debtor-in-possession and Chevron Research Company whereby the debtor grants to Chevron and its affiliates an exclusive license and sub-licensing rights for the manufacture, use and sale of Nylon-4 and products

made from Nylon-4 (including without limitation Nylon-4 Fiber, Finished Nylon-4 Products-I and Finished Nylon-4 Products-II) in the United States, Canada and Mexico and to use and sell Nylon-4 and products made from Nylon-4 so manufactured throughout the world, reserving to the debtor the right to manufacture Nylon-4 in the United States, Canada and Mexico for use by the debtor in the production of Finished Nylon-4 Products-I and Finished Nylon-4 Products-II, to use Nylon-4 for production of Finished Nylon-4 Products-I and Finished Nylon-4 Products-II in the United States, Canada and Mexico, and to use and sell Finished Nylon-4 Products-I and Finished Nylon-4 Products-II so produced throughout the world, said right to be exclusive with respect to Finished Nylon-4 Products-I until April 1, 1980, and thereafter non-exclusive, and said right to be exclusive with respect to Finished Nylon-4 Products-II until April 1, 1984, and thereafter non-exclusive. During the periods of the debtor's exclusivity, Chevron shall not have a license and licensing right with respect to Finished Nylon-4 Products-I or Finished Nylon-4 Products-II.

Debtor further grants Chevron a non-exclusive license, without the right to grant sub-licenses, under the aforesaid patent rights to manufacture, sell and use Nylon-4 and products made from Nylon-4 throughout the world,exclusive of the United States, Canada and Mexico.

In the event the debtor grants licenses during its period of exclusivity, it shall pay Chevron 40% of any such payments or other

considerations received by it under such licenses. Debtor reserves a non-exclusive, non-transferable, indivisible right to manufacture and sell Nylon-4 solely to Anic S.p.A in an amount up to fourteen metric tons to satisfy an option agreement with said company.

Chevron shall make equal annual minimum royalty pre-payments to debtor of $500,000.00 each commencing January 1, 1977 through and including January 1, 1990 to be applied against a royalty agreement, a schedule of which is more fully set forth in the license agreement. In the event Chevron fails to make the annual payment within fifteen days after the date on which due, debtor has the right to terminate the agreement upon thirty days' prior written notice to Chevron.

6. In view of the financial problems and the time limitations an immediate hearing to affirm and adopt said agreements is essential as being in the best interests of creditors.

WHEREFORE, your Petitioner prays an Order affirming and adopting the three aforesaid agreements.

ALRAC CORPORATION

BY: Harvey G. Wolfe
Executive Vice-President

EXCERPTS FROM CHEVRON LICENSE AGREEMENT

CHEVRON LICENSE AGREEMENT

THIS AGREEMENT, made this 14th day of August, 1974, between Alrac Corporation, a Delaware corporation, having its principal place of business at 649 Hope Street, Stamford, Connecticut (hereinafter referred to as "Alrac") and Chevron Research Company, a Delaware corporation, having its principal place of business at 200 Bush Street, San Francisco, California (hereinafter referred to as "Chevron");

WITNESSETH:

WHEREAS, Alrac has carried out research and development work in the field of Nylon-4 polymerization and polymer applications and owns or controls patents and patent applications throughout the world directed to Nylon-4, including composition of matter and processes for making Nylon-4; and

WHEREAS, Chevron desires to obtain certain rights for the manufacture, use and sale of Nylon-4 and products made from Nylon -4; and

WHEREAS, Alrac has determined to file with the United States District Court for the District of Connecticut ("Bankruptcy Court"), a petition for an arrangement under Chapter XI of the Federal Bankruptcy Act and to propose an arrangement with its creditors pursuant thereto (hereinafter the "Plan"); and

Excerpts from Chevron License Agreement

WHEREAS, the Plan to be proposed by Alrac will be based upon that certain Purchase Agreement between Alrac, Chevron and Chevron Chemical pursuant to which Alrac, upon the confirmation of the Plan, in accordance with Chapter XI of the Federal Bankruptcy Act, will have assigned, conveyed, transferred, granted, sold, and set-over to Chevron, certain patents and other rights, all as more particularly described in the Purchase Agreement; and

WHEREAS, Alrac has requested that Chevron enter into a certain Interim Consulting Agreement pursuant to which it is proposed that Chevron is to pay to Alrac certain sums, as set forth therein, for consulting services; and

WHEREAS, Chevron is willing to enter into the Interim Consulting Agreement provided that Alrac grant to Chevron certain rights for the manufacture, use and sale of Nylon-4 and products made from Nylon-4 as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises and mutual covenants herein contained the parties hereto agree as follows:

1-0 DEFINITIONS

Whenever used in this Agreement the following terms

under the terms of this Agreement may be paid directly to Alrac by Chevron or by such Affiliate(s), at Chevron's election.

2-4 The foregoing licenses to Chevron under Patent Rights are made subject to an Option Agreement dated July 31, 1972, with Anic S.p.A., an Italian corporation, and subject to an agreement with Lurgi Mineraloltechnik GmbH signed March 9, 1972, by Alrac and Lurgi, both further identified in Attachment "C" hereto.

3-0 ROYALTIES

3-1 Within sixty (60) days following the last day of each calendar quarter during the life of this Agreement, Chevron shall pay to Alrac royalties as set forth in Table I below on Nylon-4 and products made from Nylon-4, as the case may be, Sold throughout the world, by Chevron and/or its Affiliates and/or its sublicensees hereunder to bona fide third parties during the immediately preceding calendar quarter, if, upon manufacture, such Nylon-4 and products made from Nylon-4 include, or the manufacture of such Nylon-4 and products made from Nylon-4 employs, any invention claimed in the Patent Rights licensed to Chevron, or if such Nylon-4 and products made from Nylon-4 include, when used or Sold, any

invention claimed by the Patent Rights licensed to Chevron, regardless whether manufacture, use and/or sale occurs in country (ies) in which Alrac does not have patents within Patent Rights; provided, however, that payments to Alrac by Chevron shall not be due with respect to Nylon-4 and products made from Nylon-4, Sold, as provided above, to Alrac or Affiliates of Alrac. Chevron will at the same time deliver to Alrac a written statement accounting for payments payable hereunder or showing that no payments are due and payable.

TABLE I

A.	Nylon-4 (resin)	-2% of the Net Sales Price thereof
B.	Products made from Nylon-4 other than Nylon-4 Fiber	-2% of the Net Sales Price of the Nylon-4 (resin) used therein
C.	Nylon-4 Fiber:	
	1. Undrawn yarn	-2% of the Net Sales Price thereof
	2. Staple	-2% of the Net Sales Price thereof
	3. Flat drawn yarn	-2% of the Net Sales Price thereof
	4. Texturized yarn	-2% of the established Net Sales Price of Chevron and/or its Affiliates of flat drawn yarn of the same yarn count as the precursor of the Texturized Yarn, provided that if Chevron and/or its Affiliates have no such established Net Sales Price then, in such case, 2% of 2/3 of the Net Sales Price of the Texturized Yarn

5. All Other Nylon-4 Fiber -The royalty on all Other Nylon-4 Fiber shall be determine by reference to the royalty payable for the most comparable Nylon-4 Fibers identified in C.1 - C.4 above which are used in or for the Other Nylon-4 Fiber, without taking into consideration any additions or treatments which increase the value of the Other Nylon-4 Fiber

3-2 Chevron shall make equal annual minimum royalty prepayments of $500,000 each commencing on January 1, 1977 and on successive anniversaries of such date through and including January 1, 1990 to Alrac. Should Chevron fail to make such payments within fifteen (15) days after the date on which due, Alrac shall have the right to terminate this Agreement upon thirty (30) days' prior written notice to Chevron. The right of termination shall be Alrac's sole remedy for failure of Chevron to make such payments. Each $500,000 annual payment shall be fully creditable against any royalty obligations due under paragraph 3-1 for the calendar year period in which such $500,000 payment falls due.

3-3 All payments specified in this Article 3-0 shall be made at Alrac's address as specified below or at such bank or other location in the United States as Alrac shall designate, in lawful money of the United States; provided that deduction may be made from such payments by Chevron for all amounts law-

fully required to be withheld and paid by Chevron and/or Chevron's licensees hereunder, as the case may be, in respect of any taxes levied or assessed on such payments in accordance with the laws of any foreign government.

3-4 In the event that the payments set forth above are initially calculated in a foreign currency as a result of sales in a foreign country, conversion thereof to United States of America dollars shall be made in each instance by employing the closing transfer buying rate for said United States dollars quoted in New York, New York, U.S.A. on the last business day of the calendar quarter for which the payment from Chevron to Alrac covers.

4-0 ACCOUNTING

4-1 Chevron will keep accurate and complete records for five years adequate to determine payments due under Article 3-0 and commencing from the date of first commercial sale hereunder will furnish to Alrac quarterly statements within sixty (60) days following the last day of each calendar quarter accounting for Chevron's payment obligations, if any, under this Agreement.

4-2 At any time during regular business hours, independent certified public accountant(s) selected by Alrac and approved by Chevron, which approval shall not unreasonably

ANSWER OF CARL BARNES AND SARAH BARNES IN OPPOSITION
TO PETITION TO AFFIRM AND ADOPT AGREEMENTS

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

IN THE MATTER OF	IN PROCEEDINGS FOR AN ARRANGEMENT UNDER CHAPTER XI
ALRAC CORPORATION f.d.b.a. RADIATION RESEARCH CORPORATION f.d.b.a. THE ALRAC COMPANY	DEBTOR NO. B-74-399

ANSWER OF CARL BARNES and SARAH BARNES
IN OPPOSITION TO PETITION TO AFFIRM
AND ADOPT AGREEMENTS

TO: HONORABLE SAUL SEIDMAN, BANKRUPTCY JUDGE

1. Respondent Carl Barnes is a creditor of Alrac Corporation (the "Debtor" hereinafter) with a claim against the Debtor in excess of $60,000 for wages due and unpaid and is also a contingent creditor as the guarantor of notes in the aggregate principal amount of $300,000 made and delivered by the Debtor to Hartford National Bank which are currently in default with accrued interest thereon in excess of $21,000 and demand for payment of which has been made by Hartford National Bank from Carl Barnes with notice that such creditor intends to proceed against security given by Carl Barnes for his guarantee consisting of mortgages upon real property owned by Carl Barnes. Carl Barnes is also the holder of the largest block of the common stock of the Debtor, owning in excess of 20% of its issued and outstanding capital shares.

2. Respondent Sarah Barnes is a creditor of the Debtor with a claim against the Debtor in approximately the sum of $51,032.38, which indebtedness is evidenced by promissory notes of the Debtor

issued and delivered for valuable consideration.

3. Respondents deny the allegations contained in paragraph numbered "1." of the Petition, except admit that the Debtor, on August 20, 1974, filed what purports to be a petition for relief under Chapter XI of the Bankruptcy Act in a pending Bankruptcy case.

4. Deny the allegations contained in paragraph numbered "2." of the Petition,except admit that the Debtor desires to operate as a debtor in possession.

5. Deny the allegations contained in paragraph numbered "4." of the Petition, except admit that heretofore Debtor entered into a certain agreement with Chevron Chemical Company and Chevron Research Company pursuant to which Chevron Research Company was, upon the occurrence of certain contingencies set forth in such agreements, to acquire properties described in the agreements.

6. Deny the allegations contained in paragraph numbered "5." of the Petition and subdivisions thereof designated "A", "B" and "C" and refer the Court to the proposed Suspension Agreement (Exhibit C to the Petition), Interim Consulting Agreement (Exhibit A to the Petition) and License Agreement (Exhibit B to the Petition) for the terms of such agreements.

7. Deny the allegations contained in paragraph numbered "6." of the Petition.

AS AND FOR A FIRST
AFFIRMATIVE DEFENSE

8. Upon information and belief the alleged Petition of the Debtor for relief under Chapter XI of the Bankruptcy Act is invalid due to the failure of the Debtor to obtain proper approval of such action at a duly called and held meeting of its Board of Directors.

AS AND FOR A SECOND
AFFIRMATIVE DEFENSE

9. That approval of the proposed License Agreement would constitute a transfer of the principal assets of the Debtor in violation of the laws of Delaware, its state of incorporation, in that Title 8, Section 271 of the Delaware Code requires approval by vote of a majority of the shareholders having authority to vote of such corporation for a transfer of the principal assets of a corporation incorporated under the laws of the State of Delaware and that the Board of Directors of the Debtor was therefore disabled from adopting the purported resolution of August 14th approving the proposed License Agreement and a Petition for an Arrangement under Chapter XI of the Bankruptcy Act predicated upon the premise that the principal assets of the corporation would be conveyed without approval of the affirmative vote of a majority of the voting shares of such corporation.

AS AND FOR A THIRD
AFFIRMATIVE DEFENSE

10. That the Debtor is in all respects insolvent and upon in-

formation and belief at this time and as of August 20, 1974, maintained no corporate operations, had no income and has no opportunity to survive as a viable corporate entity and should be adjudicated a bankrupt pursuant to Chapters I through VII of the Bankruptcy Act.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

11. That affirming and adopting the agreements proposed by Debtor's Petition would constitute a fraud upon the creditors of the Debtor and deprive the creditors of the Debtor of their rights as creditors under the provisions of Chapter XI of the Bankruptcy Act.

WHEREFORE, your Respondents pray for an order denying the Petitioner's application for affirmance and adoption of the three proposed agreements with Chevron Research Company and Chevron Chemical Company in all respects.

LEWIS AND DUNN

By Daniel B. Lewis
Daniel Lewis
A Member of the Firm
Attorneys for Respondents,
Carl Barnes and Sarah Barnes
600 Summer Street
Stamford, Connecticut 06901

A 26

AMENDED ORDER

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

IN THE MATTER OF:	IN PROCEEDINGS FOR AN ARRANGEMENT UNDER CHAPTER XI
ALRAC CORPORATION f.d.b.a. RADIATION RESEARCH CORPORATION f.d.b.a. THE ALRAC COMPANY	NO. B-74-399

AMENDED ORDER

ALRAC CORPORATION, as debtor-in-possession, having petitioned this Court to affirm and adopt certain agreements, i.e. Suspension Agreement dated August 14, 1974 between Alrac Corporation, the individual members of the Board of Directors of Alrac Corporation who signed the Agreement and Chevron Research Company and Chevron Chemical Company, Interim Consulting Agreement dated August 14, 1974, between Alrac Corporation and Chevron Research Company, and Chevron License Agreement, dated August 14, 1974, between Alrac Corporation and Chevron Research Company, all as described in the Petition filed with the Court to which there is attached a copy of each of the aforesaid Agreements, and the Petition having come on for hearing before the Court, upon notice on August 26, 1974, and upon all of the proceedings had that day, the Court continued the hearing to September 6, 1974, subject to giving of a further "Notice of Hearing of Application of Debtor-in-Possession to Adopt and Affirm Three Contracts and to Authorize Issuance of a Certificate of Indebtedness", to all known creditors and such Notice, dated

A 27

Amended Order

August 27, 1974, having been given by the Court and a hearing having been held on September 6, 1974, at which time all interested parties who were present were given an opportunity to be heard, and the Creditors' Committee appointed in this case having consented to the release requested by the debtor-in-possession, upon all of the proceedings had before the Court and the Court having considered the matter,

IT IS HEREBY FOUND, that the adoption and affirmation of the above described contracts are in the best interests of the debtor's estate and its creditors, and there being, among other grounds, no other viable alternative to the adoption and affirmation of the same, and

IT IS HEREBY ORDERED, that each of the above described contracts may be adopted and affirmed by Alrac Corporation, the debtor-in-possession, and such adoption and affirmation by the debtor-in-possession be, and the same hereby is, ratified.

Dated at Hartford, Connecticut, this 12th day of September, 1974.

SAUL SEIDMAN
Bankruptcy Judge

AMENDED

ALRAC CORPORATION ARRANGEMENT

A. The claims of administration creditors shall be paid in full, in cash, upon confirmation, or upon such terms as may be agreed upon between such administration creditors and the debtor.

B. General creditors of ALRAC CORPORATION will be divided into the following Classes:

Class I. All persons or companies having supplied merchandise or services and who have claims up to $20,000

Class II. All persons or companies having supplied merchandise or services and who have claims in excess of $20,000 and/or are holders of short term notes and/or are holders of senior notes.

Class III. All persons or companies having subordinated convertible debentures.

C. Class I.

1. All creditors having claims of $100.00 or less are to be paid in full 60 days after confirmation.
2. All creditors having claims in excess of $100.00 and up to $20,000 are to receive $100.00 or 15% of their claims, whichever is the greater sum, same to be in full settlement of their claims and payment to be made 60 days after confirmation.

D. Class II.

1. Interest on short term notes and senior notes will be computed to August 20, 1974 (the date of the filing of the Chapter XI Petition), added to the principal sum,

the debt shall be frozen in that amount and no interest shall be paid thereafter.

2. Common stock of the class presently authorized shall be issued to the members of this Class on a pro rata basis whereby the actual debt owed to a particular creditor will be multiplied by 750,000 shares of stock and the total will be divided by the total debt owed to all creditors of the Class, which will establish the number of shares to be issued to said creditor. The number of shares will be in whole numbers, without regard to any fractions, and the total number of shares shall not exceed 750,000.

3. Creditors in this Class shall be paid 100% per payment program herein provided. Ar evidence of indebtedness, substantially in the form annexed hereto and marked Exhibit "A", shall be issued to each creditor of this Class in exchange for the cancellation of any notes of the company now held by such creditor, which evidence of indebtedness shall preserve all present conversion rights of senior note holders.

E. Class III.

1. Interest on the subordinated convertible debentures will be computed to August 20, 1974 (the date of the filing of the Chapter XI Petition), added to the principal sum, the debt shall then be frozen in that amount and no interest shall be paid thereafter.

2. Common stock of the class presently authorized shall be issued to the members of this Class on a pro rata basis whereby the actual debt owed to a particular creditor will be multiplied by 750,000 shares of stock and the total will be divided by the total debt owed to all creditors of this Class, which will establish the number of shares to be issued to said creditor. The number of shares will be in whole numbers, without regard to any fractions, and the total number of shares shall not exceed 750,000.

3. Creditors in this Class shall be paid 100% per payment program herein provided. An evidence of indebtedness substantially in the form annexed hereto and marked Exhibit "B", shall be issued to each creditor of this Class in exchange for the cancellation of any subordinated convertible debentures now held by such creditor which evidence of indebtedness shall provide for the right to convert debt to common stock at the rate of one share of common stock of the class presently authorized for each $2.00 of debt without further anti-dilution provisions.

F. Upon the confirmation of this Arrangement, all of the properties and other rights which are the subject of, and are more fully described in that certain Purchase Agreement dated August 14, 1974, by and between ALRAC CORPORATION and Chevron Research Company and Chevron Chemical Company and the attachments

thereto, shall be transferred to and vested in Chevron Research Company free and clear of all liens, encumbrances, claims or licenses of whatsoever kind and nature, subject only to the terms and provisions of the said Purchase Agreement and the attachments thereto and the agreements referred to therein; and the Purchase Agreement and the attachments thereto shall become immediately effective.

If any objections be made to the confirmation of this Arrangement at the hearing on confirmation or otherwise, then no payments or distribution shall be made hereunder until the expiration of thirty-one (31) days from the date of the Order of Confirmation, provided, however, that if an appeal be taken from said Order during the thirty-one (31) days, then no payments or distribution hereunder shall be made to creditors unless or until the Order of Confirmation is finally sustained or is no longer subject to appeal, whereupon the payments and distributions to creditors shall be made as if the Order of Confirmation was dated when the judgment or decree sustaining the Order of Confirmation is entered, and further provided, that if the Order of Confirmation is not sustained, that any monies then on deposit with the Court or with a disbursing Agent appointed by the Court or with the debtor or the debtor-in-possession for the purposes of consummating this Arrangement, shall be returned to the parties who may have made the deposit without further Order of the Court.

G. Pursuant to the aforesaid certain Purchase Agreement, dated August 14, 1974, by and between ALRAC CORPORATION and Chevron

Research Company and Chevron Chemical Company, certain properties as more fully described therein, are being sold by ALRAC CORPORATION to Chevron Research Company. Subject to the terms and provisions of the Purchase Agreement, Chevron Research Company will pay to ALRAC CORPORATION certain annual minimum payments of $500,000 each. Subsequent to the confirmation of this Arrangement, ALRAC CORPORATION in writing given each year prior to the due date of the annual minimum payment, shall authorize and empower Chevron Research Company to pay all or such portion of the annual minimum payment as may be due and necessary to enable the making of the payment provided for by this Arrangement to Class II and Class III creditors, to a person designated, prior to the confirmation of this Arrangement, by the Board of Directors of ALRAC CORPORATION to act as "Agent" for the Class II and Class III creditors in respect of the receipt and disbursement of the aforesaid payment. The agent shall make distribution of the monies received by him to Class II and Class III creditors of their respective distributions within thirty (30) days after receipt of said payment. Chevron Research Company shall have no responsibility for the distribution of the monies by the Agent or have any obligation in connection with the performance by the Agent of his functions.

Upon the confirmation of this Arrangement, ALRAC CORPORATION shall assign, transfer and convey to the aforedescribed Agent as collateral security for the payment of the installments provided for in this Arrangement to Class II and Class III

creditors, all of its right, title and interest to receive back from Chevron Research Company in accordance with the Purchase Agreement any properties theretofore conveyed by ALRAC CORPORATION to Chevron Research Company in accordance with the Purchase Agreement, should Chevron Research Company prepay its obligations pursuant to the Purchase Agreement. If such properties are reconveyed by Chevron Research Company, they shall be received by the Agent and held for the benefit of the Class II and Class III creditors to the extent of any unpaid balances then due the said Class II and Class III creditors pursuant to this Arrangement. Upon the reconveyance, if any, the Agent shall first determine whether or not ALRAC CORPORATION is able to meet the obligation of paying any unpaid balances due to Class II and Class III creditors hereunder, and if so, ALRAC CORPORATION shall meet said payments as they fall due and the Agent shall take no action to dispose of the assets received and held by it for the benefit of the Class II and Class III creditors. In the event that the Agent reasonably concludes that ALRAC CORPORATION is unable to meet the obligations, or ALRAC CORPORATION defaults on any payment when same shall fall due hereunder, then the Agent shall have the full right, title and power to use, license, sell or otherwise dispose of the properties for the purpose of satisfying any unpaid balances provided that he shall act in a commercially reasonable fashion. Upon the satisfaction of any unpaid balances, the properties or any

excess monies resulting therefrom shall be assigned and transferred to and set over to ALRAC CORPORATION.

II. The Bankruptcy Court shall retain jurisdiction pursuant to the provisions of Sections 368 and 369 of the Bankruptcy Act and in respect to the following matters:

1. to enable the debtor to consummate all transactions contemplated by the Arrangement;
2. to recover any preferences, assets, transfers or damages to which it may be entitled under the Bankruptcy Act or other law;
3. to reject any executory contracts;
4. to adjudicate all claims or controversies arising under the terms of the Arrangement;
5. to supervise and authorize any issuance of shares of stock of the debtor or exchange of securities under the Arrangement.

Dated at New Haven, Connecticut, this 7th day of November, 1974.

ALRAC CORPORATION

BY: GERALD W. BROWNSTEIN
Its Attorney

ISSUED PURSUANT TO CHAPTER XI PLAN CONFIRMED BY AN ORDER OF THE BANKRUPTCY COURT DATED , 1974.

EXHIBIT "A"

WHEREAS, the holder hereof is a Class II creditor under the Arrangement proposed and confirmed by the debtor in Chapter XI Proceedings entitled IN THE MATTER OF ALRAC CORPORATION, DEBTOR NO. B-74-399, BANKRUPTCY COURT FOR THE DISTRICT OF CONNECTICUT, HONORABLE SAUL SEIDMAN, BANKRUPTCY JUDGE, and

WHEREAS, under and by virtue of the terms of said Arrangement, if the holder hereof is the holder of a promissory note of ALRAC CORPORATION said note has been and hereby is cancelled, with the exception of the conversion rights granted to Senior Note holders in which event said rights shall survive the cancellation of said notes and remain in full force and effect as originally granted, and

WHEREAS, pursuant to the confirmed Arrangement, ALRAC CORPORATION has undertaken to satisfy the allowed claims of Class II creditors as provided therein,

NOW, THEREFORE,

1. ALRAC CORPORATION promises to pay to the sum of $ (which sum includes interest on the above original obligation computed to August 20, 1974) as follows:

A. Each payment hereunder shall be paid on an annual basis and shall be made in pursuance to the terms and provisions of Paragraphs F and G of an Arrangement between ALRAC CORPORATION and its creditors dated November 7, 1974 in the aforedescribed Chapter XI proceedings.

B. The holder hereof will receive his proportionate share of funds with other Class II creditors in the total amount of

$400,000.00 in 1976
$400,000.00 in 1977
$400,000.00 in 1978
$400,000.00 in 1979
$400,000.00 in 1980
$400,000.00 in 1981
$100,000.00 in 1982

C. To the extent that any holder in this Class shall exercise his conversion rights, then the principal amount of the obligation owed to such holder and upon which payments hereunder shall be based shall be reduced accordingly.

Dated this day of , 197 .

ALRAC CORPORATION

BY: _____
Duly Authorized Officer

ISSUED PURSUANT TO CHAPTER XI PLAN CONFIRMED BY AN ORDER OF THE BANKRUPTCY COURT DATED _____, 1974.

EXHIBIT "B"

WHEREAS, the holder hereof is the holder of a subordinated convertible debenture of ALRAC CORPORATION as defined in Class III of the Arrangement proposed and confirmed by the debtor in Chapter XI Proceedings entitled IN THE MATTER OF ALRAC CORPORATION, DEBTOR NO. B-74-399, BANKRUPTCY COURT FOR THE DISTRICT OF CONNECTICUT, HONORABLE SAUL SEIDMAN, BANKRUPTCY JUDGE, and

WHEREAS, under and by virtue of the terms of said Arrangement said subordinated convertible debenture has been and hereby is cancelled, with the exception of the conversion rights granted to said subordinated convertible debentures, as hereinafter more fully set forth, and

WHEREAS, pursuant to the confirmed Arrangement, ALRAC CORPORATION has undertaken to satisfy the allowed claims of Class III creditors as provided therein,

NOW, THEREFORE,

1. ALRAC CORPORATION promises to pay to _____ the sum of $_____ (which sum includes interest on the above original obligation computed to August 20, 1974) as follows:

A. Each payment hereunder shall be paid on an annual basis and shall be made in pursuance to the terms and provisions of paragraphs F and G of an Arrangement between ALRAC CORPORATION and

its creditors, dated November 7, 1974, in the aforedescribed Chapter XI Proceedings

B. The holder hereof will receive his proportionate share of funds with other Class III creditors in the total amount of

$ 25,000.00 in 1977
$ 50,000.00 in 1978
$ 50,000.00 in 1979
$ 50,000.00 in 1980
$ 50,000.00 in 1981
$350,000.00 in 1982
$450,000.00 in 1983
$450,000.00 in 1984
$450,000.00 in 1985
$450,000.00 in 1986
$ 35,000.00 in 1987

C. Creditors of this Class shall have the right to convert debt to common stock of the class authorized as of the date of the filing of the Chapter XI petition at the rate of one share of common stock for each $2.00 of debt outstanding as of the date of conversion without further anti-dilution provisions.

D. To the extent that any holder in this Class shall exercise his conversion rights, then the principal amount of the obligation owed to such holder and upon which payments hereunder shall be based shall be reduced accordingly.

Dated this day of , 197 .

ALRAC CORPORATION

BY: _____
Duly Authorized Officer

LETTER FROM SECURITIES AND EXCHANGE COMMISSION
DATED DECEMBER 18, 1974

IN REPLYING PLEASE QUOTE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

SPECIAL DELIVERY

December 18, 1974

Honorable Saul Seidman
Bankruptcy Judge
United States Courthouse
450 Main Street
Hartford, Connecticut

Re: In the Matter of Alrac Corporation,
Debtor, in Proceedings for an
Arrangement B-74-399

Dear Judge Seidman:

This letter is respectfully submitted in connection with the Debtor's application for confirmation of the arrangement filed in this proceeding and with the motion by Carl E. Barnes and Sarah E. Barnes ("Barnes motion") to transfer the pending arrangement proceedings under Chapter XI of the Bankruptcy Act ("Act") to reorganization proceedings under Chapter X of the Act.

With respect to the Debtor's proposed arrangement we hope that this letter will be of aid to the Court in passing upon the Debtor's application for confirmation and its claimed exemption from the registration requirements of the Securities Act of 1933 for the securities contemplated to be issued under the proposed arrangement. While we recognize that this Commission's role in Chapter XI has generally been limited to motions under Section 328 of that Chapter, where, as here, a stock plan is involved, the Commission's concerns stem also from its responsibilities under the Federal Securities Laws. In particular, we are here concerned by the fact that (1) the Debtor's proposed arrangement calls for the issuance of a substantial quantity

of new, unregistered common stock (approximately 1,500,000 shares) that will doubtless be distributed to public investors in due course; (2) there is not available adequate current information with respect to this Debtor; (3) it would appear that the assets of this Debtor, with the possible exception of certain patent rights, are very modest--indeed, almost non-existent; and (4) it appears that if this arrangement is consummated Alrac will no longer be engaged in the active conduct of any trade or business.

We have been unable to obtain any precise information of the Debtor's assets, liabilities, capital structure or operations. However, as we understand the facts, Alrac is a corporation which has been engaged in research and development but presently has no operations whatsoever. Its most valuable asset is a patent for the process of manufacturing a certain nylon fabric. At present, this patent represents Alrac's only potential source of income. It further appears that success of this business upon confirmation and discharge from Chapter XI depends primarily upon a "Purchase Agreement" with the Chevron Research Company under which this patent would be sold to Chevron subject to the terms and conditions of the "Purchase Agreement." We have not had an opportunity to study this "Purchase Agreement" but would point out that the obligation of the Purchaser, at least as set forth in summary form in the arrangement, is somewhat nebulous. Irrespective of this aspect, however, the patent itself is of limited duration.

Debtor's schedules filed with this Court show assets of approximately $45,615 and liabilities of approximately $5,247,285. Its capital structure consists of certain notes of approximately $1,960,197 held by about 65 persons; convertible subordinated debentures of approximately $2,215,000 held by about 150 persons; and 1,043,056 shares of common stock outstanding held by about 1,600 persons. It is anticipated that approximately 1,500,000 shares of Debtor's common stock would be issued under the Debtor's proposed

arrangement. As a result, if this arrangement is consummated, the debtor's inflated capital structure will be supported by a business whose tangible assets are almost non-existent and whose only apparent source of income would be from royalties. In short, based upon the current record, it is highly questionable whether the securities to be issued under the proposed arrangement have any discernible investment value.

Against this background, the proposed arrangement would appear to run afoul of Section 366(4) of Chapter XI (11 U.S.C. 766(4)), under which the court cannot confirm a Chapter XI arrangement unless satisfied that the proposal and its acceptance are in good faith. Of that section Collier says:

> "A comprehensive definition of good faith is not practical. Broadly speaking, the basic inquiry should be whether or not under the circumstances of the case there has been an abuse of the provisions, purpose or spirit of Chapter XI in the proposal or acceptance of the arrangement." 9 Collier on Bankruptcy, 318, (14th Ed. 1969).

The purpose of Chapter XI is to facilitate compositions between financially embarrassed entrepeneurs (whether individual or corporate) and their creditors. That chapter of the Act is, as the Supreme Court pointed out in the very first Chapter XI case to come before it, "peculiarly adapted to the speedy composition of debts of small individuals and corporate businesses." SEC v. U.S. Realty & Improvement Co., 310 U.S. 434, 447 (1940). Twenty-five years later the Supreme Court spoke of "the basic purposes of Chapter XI to provide a quick and economic means of facilitating simple compositions among general creditors. . ." SEC v. American Trailer Rentals Co., 379 U.S. 594, 606 (1965).

In short, Chapter XI deals, in our view, with the rehabilitation of businesses. It was not designed to promote trafficking in unregistered stock. To use it for that latter purpose is to pervert it. Arrangements looking primarily toward that end lack the good faith called for by

Section 366(4). We suggest that based upon the present record this arrangement would appear to have little to do with "research, development and manufacturing." But it seems to have a great deal to do with shares of low-grade, unregistered stock, and with the marketing of such stock.

Pertinent to the issue of good faith, we think, is this question: have creditors electing to take stock received full and fair disclosure of all the relevant facts? Very much in point here are the Tenth Circuit's observations in In re American Trailer Rentals Co., 325 F.2d 47, 52-53 (1963), reversed on other grounds sub. nom., S.E.C. v. American Trailer Rentals Co., 379 U.S. 594 (1965):

> "The second order appealed from relates to . . . violations of Section 17((fraud provisions) of the Securities Act of 1933 (15 U.S.C. §77q). While Securities issued under Chapter XI proceedings are exempt from Section 5 (registratin) under the Securities Act of 1933 (15 U.S.C. §77e), they are not exempt from Section 17.
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> "Under Section 17(a), Securities Act of 1933, 15 U.S.C. §77q(a), the failure to state the whole truth with regard to a security is equally as unlawful as statements of half-truths or deliberate falsehoods. Hughes v. Securities and Exchange Comm., 85 U.S. App. D.C. 56 174 F.2d 969. It is the impression created by the statements which determines whether they are misleading. Kalwajtys V. Federal Trade Comm., 7 Cir. 237 F.2d 654, 65 A.L.R.2d 220, cert. denied 352 U.S. 1025, 77 S.Ct. 591, 1 L.Ed.2d 597; Securities and Exchange Comm. v. Macon, D.C. Colo., 28 F. Supp. 127. Cf. Berko v. Securities and Exchange Comm., 2 Cir. 316 F.2d 137. Section 17(a) is not limited to the common-law definition of fraud. Hughes v. Securities and Exchange Comm., supra; Norris & Hirschberg v. Securities and Exchange Comm., 85 U.S.App.D.C. 268, 177 F.2d 228, cert. denied 333 U.S. 867, 68 S.Ct. 788, 92 L.Ed. 1145; Loss,

Securities Regulation, 1 Vol.Ed. p. 1435. From the authorities it appears that if the stock involved here were not part of an arrangement, the disclosures made with regard to it would be clearly inadequate. No authority has been found which would indicate that recipients of stock issued in connection with an arrangement are not entitled to as much information as are those persons acquiring stock under ordinary circumstances.

"The S.E.C. points out in its brief that the simplest procedure would be for debtor to voluntarily provide the needed information, and failing in that, the referee should have ordered that disclosure be made. We think that this is a matter which the District Court can now handle. If it appears that, for the protection of those being solicited to accept the plan, additional information is necessary, the Court should so order." (emphasis added, footnotes omitted)

Important though disclosure is, disclosure unaccompanied by registration under the Securities Act is insufficient in itself to meet the qualitative standards implicit in Section 393 of Chapter XI. It must be remembered that: (a) the bankruptcy court is being asked to place its imprimatur on the Alrac shares to be issued to the creditors; and (b) subsequent purchasers of those shares will have no access to the reliable repository of information that a Securities Act prospectus would supply.

As Collier points out, the exemptions from registration in Chapters X and XI of the Bankruptcy Act mean that "the reorganization court is under the duty to scrutinize with care the securities to be issued in order to prevent the issuance of unsound or deceptive securities" (6A Collier on Bankruptcy at p. 513). See also, 1 Loss, Securities Regulation 585 (2d ed. 1961), pointing out that the Bankruptcy Act exemptions from registration under the Securities Act "have led to judicial recognition of the added responsibility which the exemption from registration imposes upon the courts to reject any plan which provides for the issuance of unsound securities". Noteworthy in this regard is In re American Department Stores Corporation 16 F.Supp. 977, 980 (D. Del. 1936) holding that the

exemption from registration under the Securities Act contained in former Section 77B of the Bankruptcy Act, the predecessor of Chapters X and XI, imposed "upon the courts the task of scrutinizing with care securities to be issued under a plan of reorganization". American Department Stores, supra, was cited and followed in In re Barlum Corporation, 62 F.Supp. 81, 88 (E.D. Mich. 1945) where the court observed that:

> "Since securities issued pursuant to a plan or reorganization . . . are exempt from the registration requirements of the Securities Acts. . . there is a certain burden thrust on the Court to carefully scrutinize the proposed new securities and to reject any plan of reorganization which proposes to issue securities of an unsound type."

Barlum, supra, was a Chapter X case. But what the court there said of Section 264 of Chapter X applies with equal force, we think, to Section 393 of Chapter XI. To differentiate one section from the other for this purpose would be to draw a distinction without a difference. The words that Congress used in the two sections are identical. And so are the pertinent policy considerations.

We do not suggest that Section 393 is available only for securities of triple A quality. Debtors who resort to Chapter XI are usually in poor health. That is why they are there. It would be unreasonable to read Section 393 as requiring a showing of top investment quality. But there is a line of demarcation between the speculative, on the one hand, and the spurious on the other. Some showing of intrinsic investment value is essential.

This Commission intervened in a Chapter XI proceeding in the District of Massachusetts (In the Matter of Synergistics, Inc. No. 70-1251) and took positions similar to those expressed

in this letter. 1/ There the court stated among other things as follows:

> "It became apparent that the real objection of the S.E.C. lay in the fact that if the Plan were confirmed, there would be issued to creditors approximately 800,000 shares (anticipating that the creditors would elect the stock option provided in the Plan); that the stock would be of highly doubtful value, and that the creditors would "unload" the stock to an unsuspecting public in an attempt to recoup their losses. The intervention of the Securities and Exchange Commission in Chapter XI proceedings is at the least unusual, but it is at one with the duty of a Chapter XI court, as I see it, to make sure that it does not confirm a Plan that aids creditors in foisting stock of highly doubtful value on an unsuspecting public, the members of which may believe that the order confirming the Plan gives a validity to the issued stock beyond its real worth." 2/

1/ We also note three other unreported Chapter XI cases analagous to the instant one. We know of those cases because we participated in them. In each of them we raised the "best interests of creditors", "good faith", and Section 393 issues adverted to in this communication. In all three cases the court refused to confirm the plan, and the corporate Debtor was adjudicated a bankrupt. The cases in question are In the Matter of United States Research Corporation, N.D. Ga., Bankruptcy No. 67509 (April 7, 1970, A. David Kahn, Referee); In the Matter of Universal Topics, Inc., D. Md., Bankruptcy No. 14243 (October 29, 1970, Joseph O. Kaiser, Referee); and In the Matter of The Studio Creative Crafts, Inc., E.D. Va., Alexandria Div., Bankruptcy No. 208-70-A (Martin V.B. Bostetter, Jr., Referee).

2/ Order Confirming Plan of Arrangement, page 2. Since this confirmation order is unreported, we are attaching a copy for the convenience of the court.

The Referee's statements on Commission intervention in Chapter XI are in accord with settled law. In that regard, the Supreme Court stated in SEC v. American Trailer Rentals Co., supra, at p. 613:

> ". . . we hold that under the statutory scheme, while not charged with express statutory rights and responsibilities as in Chapter X, the SEC is entitled to intervene and be heard in a Chapter XI proceeding."

Furthermore, based upon the present record it is hard to see how this proposed arrangement can possible be found to be "for the best interests of the creditors," as required by Section 366(2) of Chapter XI. Creditors who take new Alrac stock will be receiving a security which appears to be devoid of any discernible investment value. It appears, therefore, that, the only theory on which the "best interests of the creditors" test prescribed by Section 366(2) of the Bankruptcy Act could be deemed satisfied, would be based on the premise that a piece of paper worthless as an investment is nevertheless good for the creditor who gets it because he will be able to palm it off in the market place on some unsuspecting investor. We doubt that this is what Congress meant when it wrote the phrase "best interests of the creditors" into the Act.

Based upon the foregoing, this case may well be covered by the Supreme Court's holding that "Chapters X and XI were not designed to prolong - without good reason and at the expense of the investing public-the corporate life of every debtor suffering from terminal financial ills." SEC v. American Trailer Rentals Co., supra, at p. 618.

In conclusion we wish to emphasize that the foregoing observations are predicated upon the present posture of the record in this proceeding. We understand that a hearing on confirmation is scheduled before Your Honor. Thus, further facts may be adduced at such a hearing which will, among other

things, demonstrate the Debtor's viability and support its application for confirmation.

We take no position on the Barnes motion.

Respectfully yours,

Marvin E. Jacob
Associate Regional Administrator

By Lawrence J. Toscano
Lawrence J. Toscano
Assistant Regional Administrator

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF CONNECTICUT

IN THE MATTER OF:	
ALRAC, CORPORATION	Bankruptcy No. B-74-399
	Chapter XI

Federal Building
450 Main Street
Hartford, Connecticut

December 20, 1974

CONTINUED FIRST AND ACCEPTANCE
ORDER TO SHOW CAUSE
WHY CHAPTER XI SHOULD NOT BE
DISMISSED AND AMENDED TO
CHAPTER X

B e f o r e :

The Hon. Saul Seidman, Bankruptcy Judge

Lisa M. Beaudoin
Court Reporter
87 Meadow Street
Bristol, Connecticut

A p p e a r a n c e s :

For the debtor in possession

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For the Creditors Committee

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By: Robert Evans, Esq.

For First National City Bank as Indenture Trustee

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BY: DENNIS MURPHY, ESQ.

. . . The following is the transcript of the hearing on continued first and acceptance and order to show cause why Chapter XI should not be dismissed and amended to Chapter X in the matter of Alrac Corporation, Debtor, which was held before the Honorable Saul Seidman, Bankruptcy Judge, in the Federal Building, 450 Main Street, Hartford, Connecticut, on Friday, December 20, 1974, at 2:00 o'clock P.M., at which time counsel were present as hereinbefore set forth . . .

THE COURT: Good afternoon, this is a continued first meeting. Are we in a position to discuss the matter of the acceptance of the plan?

MR. BROWNSTEIN: Yes, your Honor. Mr. Krick will hand up to the bench the vote on the arrangement that will show a majority in number and amount.

THE COURT: Do you have the numbers and amounts? You can give them to me.

MR. BROWNSTEIN: Yes, we do, your Honor.

THE COURT: If you would, please.

MR. BROWNSTEIN: I'll have Mr. Krick put that on the record.

THE COURT: Do you have a copy of the computations?

MR. EVANS: No. Before we proceed on this, we haven't seen any proof of claims and obviously the debtor has presented this information. It is the first time we have a chance to see it. I'don't know whether or not we can reduce our claim.

THE COURT: You have that opportunity. They are on file here.

MR. EVANS: We haven't seen any comments or anything. I don't know where they are.

THE COURT: What is your -- they haven't filed anything yet.

MR. KRICK: I have them all here.

MR. EVANS: I have two basic questions I would

like to ask. First, I would like to know exactly what went out to creditors. There seems to be a question, as a result of Doctor Barnes calling some of the creditors.

THE COURT: I don't know what your question is.

MR. EVANS: What went out to the creditors in so far as the class one creditors acceptances?

THE COURT: The court did nothing in that regard.

MR. EVANS: I would like that placed on the record. It becomes as part of furthur motions which are coming before the Court today.

THE COURT: I still don't know what you are looking for. You want me to tell you what the creditors committee did so far as solicitate?

MR. EVANS: I would like someone from the creditors committee to tell me what they did.

THE COURT: I assume they solicited the claim. You want to add to that?

MR. BROWNSTEIN: I think that my brothers request is irrelevant. The fact of the matter is the usual. The creditors committee is to go out an solicit consents based on the plan.

THE COURT: I don't understand as to what you are looking for.

MR. EVANS: Based upon three telegrams, there are

statements made by three creditors who are in class three.

THE COURT: Are the creditors here? We received several telegrams from creditors who have withdrawn their acceptances.

MR. BROWNSTEIN: That is correct, your Honor.

THE COURT: That's right. Presumably those came solicitated by someone other than the creditors committee.

MR. BROWNSTEIN: They weren't solicitated.

THE COURT: They were spontaneous? Mr. Evans --

MR. EVANS: Doctor Barnes contacted these people, your Honor. There is nothing to hold back. Doctor Barnes, after the meeting, contacted these creditors. These creditors advised him, Doctor Barnes, that they were unaware that they could receive 100 per cent payment. All I'm trying to get at is that it is not relevant to the counting of acceptances.

THE COURT: Let me tell you this, a copy of the plan was mailed to all creditors. If the plan -- if the creditors chose not to read it, that is up to them. The Court mailed out a copy of the plan to every creditor listed, each one got a copy of the plan.

MR. EVANS: That's the basic notice?

THE COURT: Then after the creditors committee solicites the acceptances.

MR. EVANS: That's this notice?

THE COURT: I don't see the notice that they send out.

MR. EVANS: Your notice, from the Court not theirs. I would like on the record any statements made -- any statements that were made --

THE COURT: The Court made no statements. The Court sent out a copy of the plan.

MR. EVANS: Was a letter sent -- a letter sent by the creditors committee to the Class one?

THE COURT: I have no idea.

MR. EVANS: That's what I'm trying to get on the record.

THE COURT: Presumably there was something -- a letter. If you want to make a statement on this, get on with the basics.

MR. KRICK: A letter was sent out.

MR. EVANS: I would like to see the letter and place it on the record.

THE COURT: I don't think it's relevant.

MR. BROWNSTEIN: I'm going to object. That is irrelevant. It is not procedure.

THE COURT: If you have any creditors who you know was deceived, I think --

MR. EVANS: I'm not claiming that. We don't represent any creditor --

THE COURT: The implication is that something was put over, and if you have any creditors who are ready to testify to something that would suggest that type of activity, I would like to know about it.

MR. BROWNSTEIN: So would I.

THE COURT: You won't get it from the creditors committee. Are you Ready? Something else you want to direct to.

MR. EVANS: I would like to ask again that the letter that was sent out to the creditors be put on the record.

THE COURT: You asked that. For the time being, I'll reserve my opinion on that.

MR. KRICK: Your Honor, I think by using the docket sheets provided by the Court are the best approach. We tried to keep in touch with the Court on it at all times.

THE COURT: I think it would be best by using the best possible approach.

MR. KRICK: There were three classes. There were 58 claims filed for class one. Of those 58 claims filed, 13 were unaffected because they were less than $100 and they would be paid in cash at the time of confirmation. This would leave 45, 32 filed in favor.

THE COURT: What was the amount of the 45 claims?

MR. KRICK: $93,335.09 voting in favor were $67,192.37.

THE COURT: $67,192.37.

MR. KRICK: Total number entitled to vote forty-five, forty-five voted in favor.

THE COURT: Now, class two.

MR. EVANS: Your Honor please, how many creditors are in class one, total number.

THE COURT: You look at the schedules --

MR. EVANS: As the total amount on the schedules?

THE COURT: I don't know. How relevant is that?

MR. EVANS: I would like to know.

THE COURT: You can look at the schedules.

MR. EVANS: I'm familar. What has to be done --

THE COURT: Wait a minute. Mr. Evans, you are familar with the law. The claims on file are 58 and 45 voted in favor. If there were 200 claims scheduled or 2,000 claims schedule and 45 showed up to vote that's all that's relevant at this moment.

MR. EVANS: Let me make this observation. When I file an application for confirmation I prepare a schedule with the name of the creditor, the amount of the claim, whether he voted in favor, I don't wait until five minutes after, either, when opposing

counsel or your Honor asks for it. We have no opportunity to go over this.

THE COURT: All right, you will have an opportunity.

MR. EVANS: Very well, thank you.

THE COURT: Class two.

MR. KRICK: Class two creditors, number 43.

THE COURT: And what is the total of claims.

MR. KRICK: $2,389,976.37.

THE COURT: Yes.

MR. KRICK: Holding in favor were 37.

THE COURT: 37 in favor.

MR. KRICK: $1,761,043.57.

THE COURT: Did you deduct from you calculations the telegrams that were received?

MR. KRICK: That was in class one.

THE COURT: That was in class one?

MR. KRICK: And also I provided in the class two consenting --

THE COURT: Now, just tell me this, on the 32 yes's, were there more yes's before you got these withdrawals?

MR. KRICK: Yes, there were two more yes's.

THE COURT: And those were deducted from your number. There were more then?

MR. KRICK: There were two telegrams received, but I can't find any proof of claim, nothing appears

on the docket sheet that refers to those creditors. I Have checked. I just checked recently.

THE COURT: Now, in class three.

MR. KRICK: I wanted to add one thing in class two. I included on a non-consenting creditors a full picture before it. The claim of Mr. Barnes filed for $400,000 was listed on the docket as secured. I included that in the computation as a class two creditor.

THE COURT: Mr. Barnes didn't file a secured claim.

MR. KRICK: I don't --

THE COURT: Not for that amount. This is on the guarantee of Hartford National Bank?

MR. KRICK: I assume so.

THE COURT: That's included?

MR. KRICK: That's included.

THE COURT: In a 600 odd thousand dollars --

MR. KRICK: That were not consented.

Class three creditor, 100 claims on file in the amount of $1,260,000. --

THE COURT: How many claims?

MR. KRICK: One Hundred.

THE COURT: In what amount?

MR. KRICK: 1,260,047.75, all voted in favor.

THE COURT: All?

THE COURT: Now, I think we will have to recess to give Mr. Evans an opportunity to look over these figures.

MR. EVANS: Before we recess, I would like to renew our request for copies to be placed on the record on the letters to the class two or class three solicitation, your Honor.

MR. BROWNSTEIN: In the absence of any direct challenge, I see no need to do that.

THE COURT: There is no necessity. Do you have anything to hic

MR. BROWNSTEIN: Of course not.

MR. KRICK: I didn't bring my whole file.

THE COURT: The letter will be made available to you; whatever was sent to the creditors.

MR. EVANS: If we may have them at this time, if they'm--

THE COURT: If they'm here, you can have them. Did you ask for them?

MR. EVANS: I think we made a general request on December 17 to Mr. Brownstein.

THE COURT: Well, Mr. Brownstein isn't the creditors committee.

MR. EVANS: I think he would have the letters and the copies.

THE COURT: Let's not argue. We will recess now

to give you a chance to check over these claims to decide what objections you have to any of them.

THE COURT: You want to be heard?

MR. MURPHY: Yes, your Honor, my name is Dennis Murphy attorney for First National Bank, indenture trustee. I would like to inform the Court that an additional $163,000. principle amount of debenture holders filed claims this afternoon.

THE COURT: Which class is that?

MR. MURPHY: Class three, your Honor.

THE COURT: Are they in favor or not?

MR. MURPHY: Those were in favor.

THE COURT: Are there acceptances?

MR: MURPHY: Those were acceptances, your Honor.

THE COURT: How many?

MR. MURPHY: $163,000.

THE COURT: How many creditors?

MR. MURPHY: One, your Honor

THE COURT: One additional creditor in class three. Is the acceptance on file?

MR. MURPHY: Yes, your Honor.

MR. KRICK: I have here perhaps another. I'm just giving it, $600,000 of claims and acceptance in class three, for the record.

THE COURT: Anything that is already --

MR. KRICK: I had to freeze this record somewhere.

I can never complete these papers, the acceptances. The filing of additional claims and consents in Class Three has to stop somewhere.

THE COURT: When?

MR. KRICK: As of 10:00 o'clock this morning.

MR. EVANS: With the understanding that the letter will be turned over, a copy of the letter, we can reserve our rights. When can we recess this thing?

THE COURT: I'm recessing now so you can get a chance -- so you can get started on it. Today is the day for counting acceptances. Examine these claims, if you want to object, so I can find out what was properly filed.

MR. EVANS: The first thing to count is the letter.

THE COURT: No, the claims and the acceptances, that's all that is relevant at this time. This is a pure mechanical thing -- if they're appropriate claims, if they are accepted, they count. If they are not appropriate claims and acceptances, they don't count. If they are not appropariate, they won't count.

MR. EVANS: Your Honor, what I would like to say is that apparently the pressure of the time period

which Chevron has imposed on this matter --

THE COURT: Chevron has no pressure as far as the Court is concerned. I'd like to say this, Mr. Evans, it's the policy of this Court in a Chapter XI at whatever point and time it's apparent to the Court that there is a majority of number of creditors who are entered to it at a duly notice meeting to consider that. That's the day the Court wants to act. Now, today is the time to examine these claims.

MR. EVANS: We don't object to that. We want to reserve our rights.

THE COURT: You reserve to examine the claims, now, and objection to them.

MR. EVANS: We want to base our rights. I don't want to delay the proceedings. We are not interested in doing that.

THE COURT: You don't want to count?

MR. EVANS: That might take a couple of hours.

THE COURT: That's all right.

MR. EVANS: We have other matters.

THE COURT: Mr. Evans, that is the first order of business. Presumably, there is a claim of majority in number and amount that you object to. I'm giving you an opportunity to examine these to see if this count-- if there are objections to claims

on file, they should be stated.

MR. EVANS: We are not asking for a recess. We are happy to reserve our rights on the basis of this evidence.

THE COURT: Are you waiving any objections. I'm giving you an opportunity to see them right now.

MR. EVANS: I don't want to delay this thing.

THE COURT: I'll recess and give you an opportunity to examine them if you decide to do it inform the Court, and we will reconvene.

MR. LOUIS EVANS: Instead of your Honor recessing -- if your Honor would make a ruling that we have stated our position for the record and we take any position there after.

THE COURT: Do you question this count?

MR. EVANS: We won't know untill we have a good look.

THE COURT: Mr. Evans, I'm giving you an opportunity now. I want a statement from you. Eigher you accept this count or you object and to what extent your objection to the particular claim is. You have as much time as you need beginning right now. Do whatever examination that's necessary.

MR. LOUIS EVANS: I think it's a unfair burden on us.

THE COURT: It is an unfair burden.

MR. EVANS: That's what we are trying to avoid.

THE COURT: It's unfortunate. That's the way it's going to be.

The number of claims are not that many. If it takes a couple of hours, so be it. As I said, if at any point you determine you don't want to follow through on that, that you accept the count as it is filed, advice me and we will take the next step. We will recess now.

(Recessed at 2:47 o'clock P.M.)

(Resumed at 3:51 o'clock P.M.)

THE COURT: Are there any claims that are accepted that you have objections to?

MR. EVANS: With respect to the acceptances of class two and three there are no errors of significance in those areas. We would ask obviously that we would be furnished the solicitations that went out.

THE COURT: Yes.

MR. KRICK: With respect to the class one claims, it appears to be some discrepancy, none of major significance.

THE COURT: How many claims?

MR. KRICK: My girl gave me assistance. It appears that the same persons have filed numerous

claims which I think my girl has added. There is one person who filed three claims. I think she counted them three times. There is another consenting creditor listed twice, so this would reduce the amount.

MR. EVANS: You found 28 in favor, 13 opposed. Disregarding all creditors one included for the mass amount.

THE COURT: That left 45.

MR. KRICK: That should have been 42, I guess.

MR. EVANS 41 or 2.

THE COURT: And there are still 32 yes's?

MR. EVANS: 28 yes's left.

MR. KRICK: I'll file a corrected statement for class one for the record..

THE COURT: That changes the arithemetic.

MR. EVANS: It doesn't change the results, obviously. There was an understanding that whatever letter was sent out by the creditors committee would be presented.

THE COURT: Well, it appears that a majority in number and amount of creditors have accepted the plan. Accordingly, I will find that the plan has been accepted and I'll declare the first meeting of creditors closed.. Now, we come to the question of those two things, motion to transfer to

a Chapter X and hearing on confirmation. I suggest to you that you file what can be identified as objections to confirmation. I'm not sure if what you filed qualifies. It may. If you feel that it does, then there is no objections that can be considered as objections to confirmation of the plan. The next question is as to a date at which time the hearing will be held on the transfer to Chapter X and confirmation. We will have the hearings basicly in that order, because, if it's transferred there would be no confirmation.

MR. BROWNSTEIN: What order? Chapter X first?

THE COURT: Yes. What I understand through discussions with counsel the evidence will be pretty much the same as both of them as to the question of good faith, so that the evidence can come in without being labled for one or the other.

MR. EVANS: I would assume Doctor Barnes is applicable as to one or the other.

THE COURT: We'll continue the hearing on confirmation to, correct me on the date, December 26.

MR. LOUIS EVANS: December 26 at 11:00?

THE COURT: At 11:00 o'clock a.m.

MR. BROWNSTEIN: If your Honor pleases, could we just have a moment. The time we need on that day will be available that day. It appears to be

a satisfactory date as far as the witnesses.

THE COURT: Is there anything else to communicate on today?

MR. BROWNSTEIN: Not that I know of, your Honor.

THE COURT: We will adjourn then. Thank you, gentlemen:

(The hearing was adjourned at 4:11 O'clock P.M.)

A 68

PROOF OF CLAIM OF EDWARD M. PETERS - NO. 76

[illegible] or Corporation

[illegible] AT BROADWAY, N. Y. C. 10007

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF

In re Alpha Corporation Radiation Research

Debtor

Include here all names used by debtor within last 6 years.

ARRANGEMENT NO.

PROOF OF CLAIM

PENALTY FOR PRESENTING FRAUDULENT CLAIMS.—Fine of not more than $5,000 or imprisonment for not more than five years or both—Title 18, U.S.C., Sec. 152

1. If claimant is an individual claiming for himself The undersigned, who is the claimant herein, resides at * 591 Bausch Rochester

If claimant is a partnership claiming through a member The undersigned who resides at * Ridgefield Conn

is a member of a partnership, composed of the undersigned and †

and doing business at *

and is authorized to make this proof of claim on behalf of the partnership.

If claimant is a corporation claiming through an authorized officer The undersigned, who resides at *

is the of , a corporation organized under the laws of

and doing business at *

and is authorized to make this proof of claim on behalf of the corporation.

If claim is made by agent The undersigned, who resides at *

is the agent of

of * and is authorized to make this proof of claim on behalf of the claimant.

2. The debtor was, at the time of the filing of the petition initiating this case, and still is indebted [or liable] to the claimant, in the sum of $ 1,134.62

3. The consideration for this debt [or ground of liability] is as follows:

Medical insurance owed by corporation paid by employee

4. [If the claim is founded on writing] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [or cannot be attached for the reason set forth in the statement attached hereto].

5. [If appropriate] This claim is founded on an open account, which became [or will become] due on as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

6. No judgment has been rendered on the claim except

7. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. This claim is not subject to any setoff or counter-claim except

9. No security interest is held for this claim except

[If security interest in property of the debtor is claimed] The undersigned claims the security interest under the writing referred to in paragraph 4 hereof [or under a separate writing which (or a duplicate of which) is attached hereto, or under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

10. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 9 is sufficient to satisfy the claim. [If priority is claimed, state amount and basis thereof.]

Dated: 11/21/74

RECEIVED

DEC 4 1974

Signed: Edward M Peters

POWER OF ATTORNEY

To SAUL SEIDMAN BANKRUPTCY JUDGE

of *

The undersigned claimant hereby authorizes you, or any one of you, or attorney to act for the undersigned and with full power of substitution, to vote on any question that may be lawfully submitted to creditors of the debtor in the above-entitled case; [if appropriate] to vote for a trustee of the estate of the debtor and for a committee of creditors; to receive [illegible] and in general to perform any act not constituting the practice of law for the undersigned in all matters arising in this case.

Dated: Signed:

#76 DEC 6 1974 (If appropriate) By: As

Address:

SAUL SEIDMAN BANKRUPTCY JUDGE

STATE OF ss.: ACKNOWLEDGMENT

INDIVIDUAL-PARTNERSHIP-CORPORATION: Acknowledged before me on

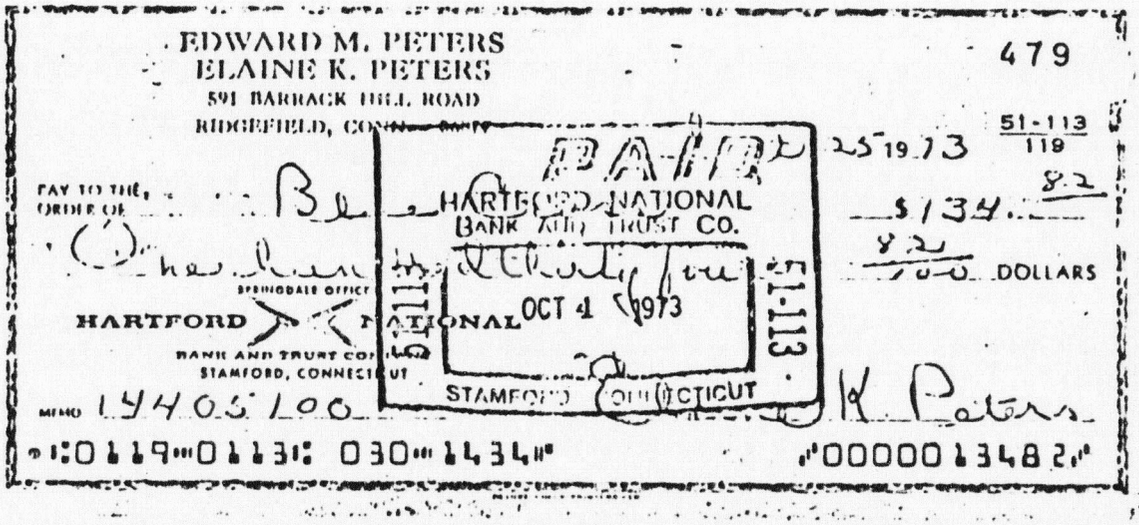
PARTNERSHIP: by who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

CORPORATION: by who says that he is the of the corporation named above and is authorized to execute this power of attorney in its behalf.

official character

* Give post-office address.
† Name and post-office address of each partner.

Proof of Claim of Edward M. Peters - No. 76


EDWARD M. PETERS
ELAINE K. PETERS
591 BARRACK HILL ROAD
RIDGEFIELD, CONN.

479

51-113
119

PAY TO THE ORDER OF

HARTFORD NATIONAL BANK AND TRUST CO.

25 19 73

$134.82

DOLLARS

HARTFORD NATIONAL BANK AND TRUST CO.
STAMFORD, CONNECTICUT

OCT 4 1973

STAMFORD CONNECTICUT

51-113

MEMO 1940.5100

K. Peters

⑆011900113⑈ 030⑈1434⑈ ⑈000001348 2⑈

BEST COPY AVAILABLE

A 70

PROOF OF CLAIM OF EDWARD M. PETERS - NO. 77

Individual, Partnership or Corporation

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF

In re Alrac Corporation
Radiation Research
Debtor

Include here all names used by debtor within last 6 years.

ARRANGEMENT NO.

PROOF OF CLAIM

1. If claimant is an individual claiming for himself The undersigned, who is the claimant herein, resides at * 591 Bannock Hall Rd
Ridgefield Conn

If claimant is a partnership claiming through a member The undersigned who resides at *
is a member of a partnership, composed of the undersigned and †
and doing business at *
and is authorized to make this proof of claim on behalf of the partnership.

If claimant is a corporation claiming through an authorized officer The undersigned, who resides at *
is the of , a corporation organized under the laws of
and doing business at *
and is authorized to make this proof of claim on behalf of the corporation.

If claim is made by agent The undersigned, who resides at *
is the agent of
of * and is authorized to make this proof of claim on behalf of the claimant.

2. The debtor was, at the time of the filing of the petition initiating this case, and still is indebted [or liable] to the claimant, in the sum of $ #19-152

3. The consideration for this debt [or ground of liability] is as follows:
Medical Insurance owed by corporation paid by employee

4. [*If the claim is founded on writing*] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [or cannot be attached for the reason set forth in the statement attached hereto].

5. [*If appropriate*] This claim is founded on an open account, which became [or will become] due on
as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

6. No judgment has been rendered on the claim except

7. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. This claim is not subject to any setoff or counter-claim except

9. No security interest is held for this claim except

[*If security interest in property of the debtor is claimed*] The undersigned claims the security interest under the writing referred to in paragraph 4 hereof [or under a separate writing which (or a duplicate of which) is attached hereto, or under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

10. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 9 is sufficient to satisfy the claim. [*If priority is claimed, state amount and basis thereof.*]

Dated: 11/25/74

Signed: Edward M. Peters

RECEIVED

DEC 4 1974

BANKRUPTCY COURT

POWER OF ATTORNEY

To
of *

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned and with full power of substitution, to vote on any question that may be lawfully submitted to creditors at the [illegible] meeting; [if appropriate] to vote for a trustee of the estate of the debtor and for a committee of creditors; to accept dividends; and [illegible] act not constituting the practice of law for the undersigned in all matters arising in this case.

Dated: Signed:

(If appropriate) By: As

Address:

#77

DEC 6 1974

SAUL SEIDMAN
BANKRUPTCY JUDGE

STATE OF ss.: ACKNOWLEDGMENT

INDIVIDUAL-PARTNERSHIP-CORPORATION: Acknowledged before me on

PARTNERSHIP: by who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

CORPORATION: by who says that he is the of the corporation named above and is authorized to execute this power of attorney in its behalf.

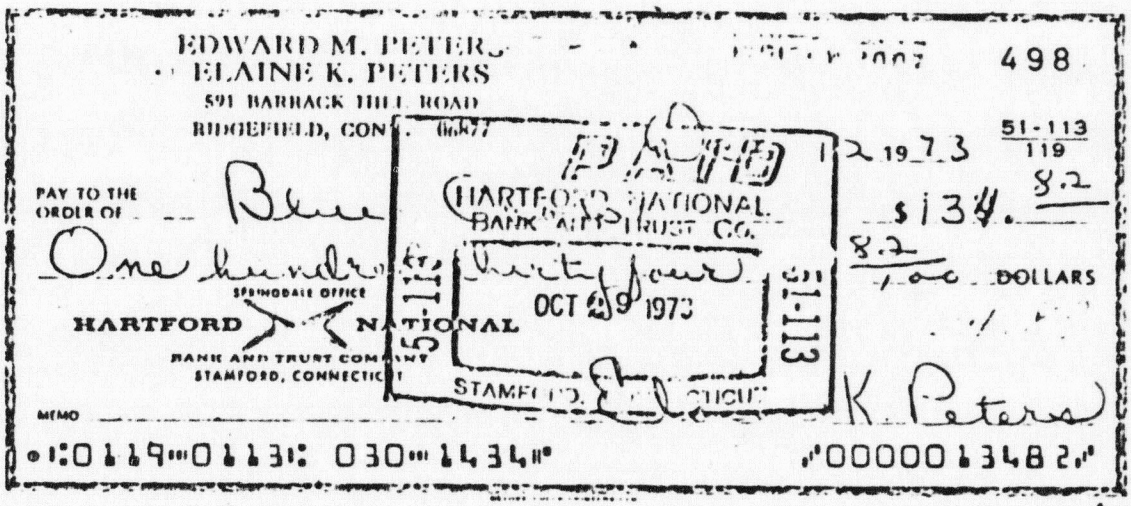
official character

PENALTY FOR PRESENTING FRAUDULENT CLAIMS—Fine of not more than $5,000 or imprisonment for not more than five years or both—Title 18, U.S.C., Sec. 152

*Give post-office address.
† Name and post-office address of each partner.

A 71

Proof of Claim of Edward M. Peters - No. 77



EDWARD M. PETERS
ELAINE K. PETERS
591 BARRACK HILL ROAD
RIDGEFIELD, CON[illegible] 06877

498

12 1973 51-113 / 119

PAY TO THE ORDER OF Blue $134.82

One hundred thirty four 82/100 DOLLARS

SPRINGDALE OFFICE
HARTFORD NATIONAL
BANK AND TRUST COMPANY
STAMFORD, CONNECTICUT

MEMO

K. Peters

HARTFORD NATIONAL BANK AND TRUST CO.
OCT 29 1973
STAMFORD, CONNECTICUT

51-113

⑆011900113⑆ 030 01434⑈ ⑈0000013482⑈

A 72

PROOF OF CLAIM OF EDWARD M. PETERS - NO. 78

Proof of Claim - Arrangement - Official Form 11-P14 - P' of Attorney - Individual, Partnership or Corpo[illegible]

[illegible] Exchange Pl. at Broadway, N. Y. C. [illegible]

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF

In re Alrac Corporation
Robert w. Resnick
Debtor

Include here all names used by debtor within last 6 years.

ARRANGEMENT NO.

PROOF OF CLAIM

1. If claimant is an individual claiming for himself The undersigned, who is the claimant herein, resides at * 591 Barnack Hill Rd Ridgefield Conn

If claimant is a partnership claiming through a member The undersigned who resides at * [illegible] is a member of [illegible] a partnership, composed of the undersigned and [illegible] and doing business at * [illegible] and is authorized to make this proof of claim on behalf of the partnership.

If claimant is a corporation claiming through an authorized officer The undersigned, who resides at * [illegible] is the [illegible] of [illegible], a corporation organized under the laws of [illegible] and doing business at * [illegible] and is authorized to make this proof of claim on behalf of the corporation.

If claim is made by agent The undersigned, who resides at * [illegible] is the agent of [illegible] of * [illegible] and is authorized to make this proof of claim on behalf of the claimant.

2. The debtor was, at the time of the filing of the petition initiating this case, and still is indebted [or liable] to the claimant in the sum of $ 1,374.82

3. The consideration for this debt [or ground of liability] is as follows:

Mid insurance owed by Corp. paid by employee

4. [If the claim is founded on writing] The writing on which this claim is founded [or a duplicate thereof] is attached hereto [or cannot be attached for the reason set forth in the statement attached hereto].

5. [If appropriate] This claim is founded on an open account, which became [or will become] due on [illegible] as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

6. No judgment has been rendered on the claim except [illegible]

7. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. This claim is not subject to any setoff or counter-claim except [illegible]

9. No security interest is held for this claim except [illegible]

[If security interest in property of the debtor is claimed] The undersigned claims the security interest under the writing referred to in paragraph 4 hereof [or under a separate writing which (or a duplicate of which) is attached hereto, or under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

10. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 9 is sufficient to satisfy the claim. [If priority is claimed, state amount and basis thereof.]

Dated: 11/25/74

Signed: Edward M. Peters

RECEIVED
DEC 4 1974

To [illegible]

POWER OF ATTORNEY

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned and with full power of substitution, to vote on [illegible] as may be lawfully submitted to creditors of the [illegible] case; [if appropriate] to vote for a trustee of the estate of the [illegible] and for a committee of creditors; to receive dividends; and [illegible] may act not constituting the practice of law for the undersigned [illegible] all matters arising in this case.

Dated: [illegible]

FILED
DEC 6 1974
BANKRUPTCY JUDGE

Signed: [illegible]

[If appropriate] By [illegible] As [illegible]

Address: [illegible]

STATE OF [illegible] COUNTY OF [illegible] ss.: ACKNOWLEDGMENT

INDIVIDUAL-PARTNERSHIP-CORPORATION: SAUL SELIGMAN acknowledged before me on [illegible]

PARTNERSHIP: [illegible] who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

CORPORATION: [illegible] who says that he is the [illegible] of the corporation named above and is authorized to execute this power of attorney in its behalf.

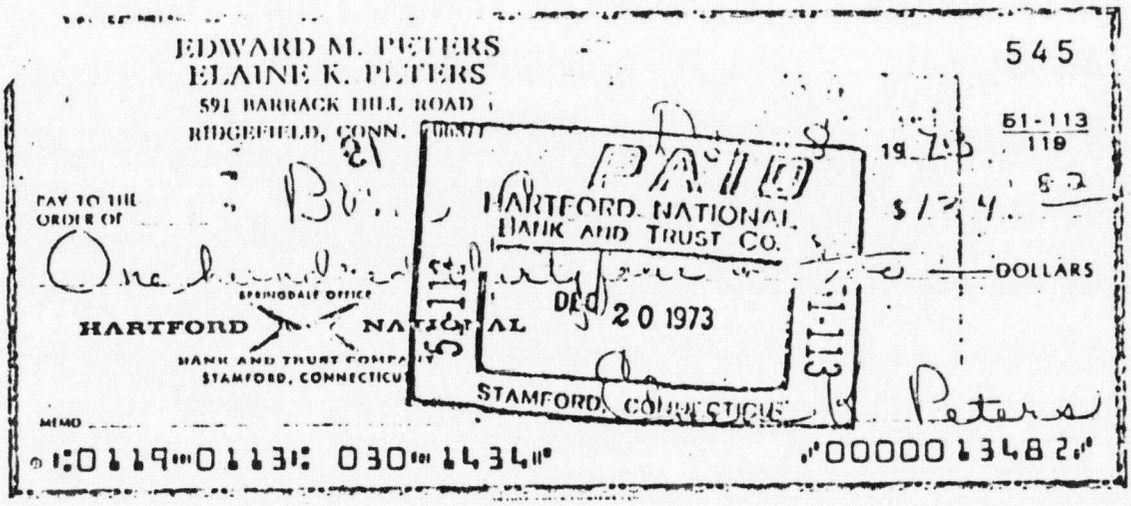
[illegible]
official character

* State post-office address.
† Name and post-office address of each partner.

PRESENTING FRAUDULENT CLAIMS—Fine of not more than $5,000 or imprisonment not more than [illegible]

A 73

Proof of Claim of Edward M. Peters - No. 78


EDWARD M. PETERS
ELAINE K. PETERS
591 BARRACK HILL ROAD
RIDGEFIELD, CONN.

545

51-113
118

PAY TO THE ORDER OF

PAID
HARTFORD NATIONAL BANK AND TRUST CO.
DEC 20 1973
STAMFORD, CONNECTICUT

DOLLARS

HARTFORD NATIONAL BANK AND TRUST COMPANY
SPRINGDALE OFFICE
STAMFORD, CONNECTICUT

MEMO

Peters

⑆011900113⑆ 030 01434⑈ ⑈0000013482⑈

A 71

PROOF OF CLAIM OF EDWARD M. PETERS - NO. 79

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF

In re Alrac Corporation
Radiation Research
Debtor

Include here all names used by debtor within last 6 years.

ARRANGEMENT NO.

PROOF OF CLAIM

1. *If claimant is an individual claiming for himself* The undersigned, who is the claimant herein, resides at * 541 Barnes Hill Rd Ridgefield Conn

If claimant is a partnership claiming through a member The undersigned who resides at * _____ is a member of _____ a partnership, composed of the undersigned and † _____ and doing business at * _____ and is authorized to make this proof of claim on behalf of the partnership.

If claimant is a corporation claiming through an authorized officer The undersigned, who resides at * _____ is the _____ of _____, a corporation organized under the laws of _____ and doing business at * _____ and is authorized to make this proof of claim on behalf of the corporation.

If claim is made by agent The undersigned, who resides at * _____ is the agent of _____ of * _____ and is authorized to make this proof of claim on behalf of the claimant.

2. The debtor was, at the time of the filing of the petition initiating this case, and still is indebted [*or* liable] to the claimant, in the sum of $ 1,317.82

3. The consideration for this debt [*or* ground of liability] is as follows:
Medical Insurance owed by corporation paid by employee

4. [*If the claim is founded on writing*] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [*or* cannot be attached for the reason set forth in the statement attached hereto].

5. [*If appropriate*] This claim is founded on an open account, which became [*or* will become] due on _____ as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

6. No judgment has been rendered on the claim except _____

7. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. This claim is not subject to any setoff or counter-claim except _____

9. No security interest is held for this claim except _____

[*If security interest in property of the debtor is claimed*] The undersigned claims the security interest under the writing referred to in paragraph 4 hereof [*or* under a separate writing which (or a duplicate of which) is attached hereto, *or* under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

10. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 9 is sufficient to satisfy the claim. [*If priority is claimed, state amount and basis thereof.*]

Dated: 11/25/74

RECEIVED
DEC 4 1974

Signed: E. M. Peters

To _____

of * _____

POWER OF ATTORNEY

SAUL SEIDMAN
BANKRUPTCY JUDGE

The undersigned claimant hereby authorizes you, _____ [illegible] for the undersigned and with full power of substitution, to vote on any question that may be lawfully submitted to creditors at the [illegible] in the above-entitled case; [if appropriate] to vote for a trustee of the estate of the debtor and for a committee of creditors; to receive dividends; and in general to perform any act not constituting the practice of law for the undersigned in all matters arising in this case.

Dated: DEC 6 1974

Signed: _____

#79

[*If appropriate*] By _____ As _____

SAUL SEIDMAN
BANKRUPTCY JUDGE

STATE OF _____ COUNTY OF _____ ss.: ACKNOWLEDGMENT

INDIVIDUAL-PARTNERSHIP-CORPORATION: Acknowledged before me on _____

PARTNERSHIP: by _____ who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

CORPORATION: by _____ who says that he is the _____ of the corporation named above and is authorized to execute this power of attorney in its behalf.

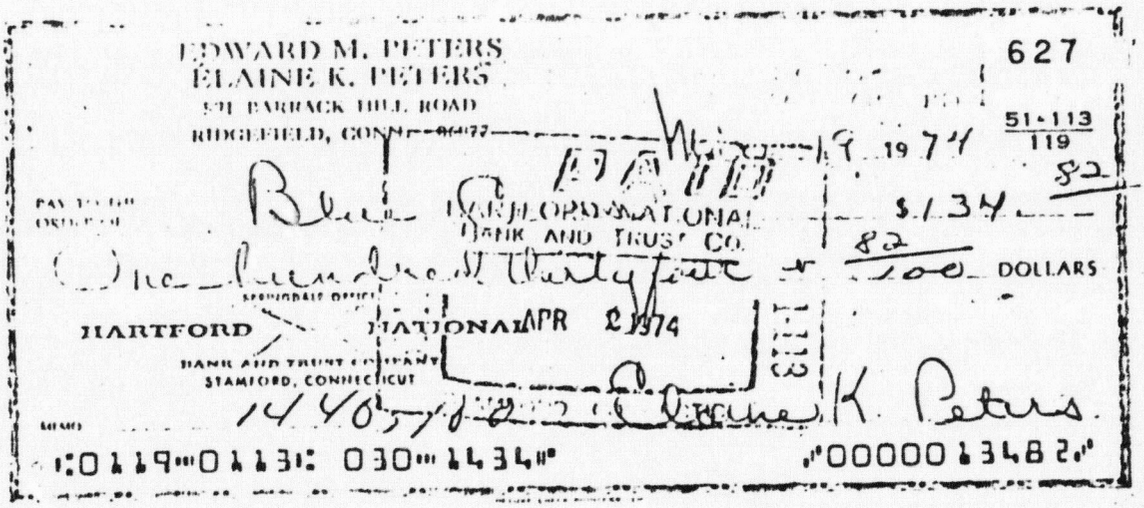
_____

_____
official character

* Give post-office address.
† Name and post-office address of each partner.

PENALTY FOR PRESENTING FRAUDULENT CLAIMS.—Fine of not more than $5,000 or imprisonment for not more than five years or both—Title 18, U.S.C., Sec. 152.

Proof of Claim of Edward M. Peters - No. 79



EDWARD M. PETERS
ELAINE K. PETERS
521 BARRACK HILL ROAD
RIDGEFIELD, CONN. 06877

627

51-113
119

19 74

PAY TO THE ORDER OF

Bloomfield National Bank and Trust Co.

$ 134.82

One hundred thirty-four 82/100 DOLLARS

HARTFORD NATIONAL
BANK AND TRUST COMPANY
STAMFORD, CONNECTICUT

APR 2 1974

MEMO 1440 Edward K. Peters

:0119=0113: 030=1434=

=00000134820

A 76

PROOF OF CLAIM OF EDWARD M. PETERS - NO. 240

UNITED STATES DISTRICT COURT FOR THE · DISTRICT OF

In re Atrac Corporation
Robertson Resinck
Debtor

Include here all names used by debtor within last 6 years.

ARRANGEMENT NO. B-74-399

PROOF OF CLAIM

PENALTY FOR PRESENTING FRAUDULENT CLAIMS.—Fine of not more than $5,000 or imprisonment for not more than five years or both—Title 18, U.S.C., Sec. 152.

1. If claimant is an individual claiming for himself The undersigned, who is the claimant herein, resides at* 391 Barrack Hill Rd Ridgefield Conn.

If claimant is a partnership claiming through a member The undersigned who resides at*

is a member of a partnership, composed of the undersigned and †

and doing business at*

and is authorized to make this proof of claim on behalf of the partnership.

If claimant is a corporation claiming through an authorized officer The undersigned, who resides at*

is the of , a corporation organized under the laws of

and doing business at*

and is authorized to make this proof of claim on behalf of the corporation.

If claim is made by agent The undersigned, who resides at*

is the agent of

of* and is authorized to make this proof of claim on behalf of the claimant.

2. The debtor was, at the time of the filing of the petition initiating this case, and still is indebted [or liable] to the claimant, in the sum of $

3. The consideration for this debt [or ground of liability] is as follows: American Express Co $44.26
bill - Corporate debt charged to employee.

4. [If the claim is founded on writing] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [or cannot be attached for the reasons set forth in the statement attached hereto].

5. [If appropriate] This claim is founded on an open account, which became [or will become] due on as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

6. No judgment has been rendered on the claim except

7. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. This claim is not subject to any setoff or counter-claim except

9. No security interest is held for this claim except

[If security interest in property of the debtor is claimed] The undersigned claims the security interest under the writing referred to in paragraph 4 hereof [or under a separate writing which (or a duplicate of which) is attached hereto, or under a separate writing which cannot be attached hereto for the reasons set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

10. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 9 is sufficient to satisfy the claim. [If priority is claimed, state amount and basis thereof.]

RECEIVED
DEC 4 1974

Dated: 11/25/74 Signed: Edward Peters

To SAUL SEIDMAN
BANKRUPTCY JUDGE
of*

POWER OF ATTORNEY

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned and with full power of substitution, to vote on any question that may be lawfully submitted to creditors of the debtor in the above-entitled case; [if appropriate] to vote for a trustee of the estate of the debtor and for a committee of creditors; to receive dividends; and in general to perform any act not constituting the practice of law for the undersigned in all matters arising in this case.

Dated: Signed:

FILED
DEC 26 1974
SAUL SEIDMAN
BANKRUPTCY JUDGE

#240

RECEIVED
DEC 19 1974
SAUL SEIDMAN
BANKRUPTCY JUDGE

Address:

ACKNOWLEDGMENT

STATE OF COUNTY OF

INDIVIDUAL-PARTNERSHIP-CORPORATION: Subscribed and sworn to before me on

PARTNERSHIP: by who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

CORPORATION: by who says that he is the of the corporation named above and is authorized to execute this power of attorney in its behalf.

official character

* Give post-office address.
† Name and post-office address of each partner.

Proof of Claim of Edward M. Peters - No. 240

The American Express bills were incurred on company business and the company did not pay the bills.

American Express is now trying to get payment for these bills from the individual persons who had the company cards.

The amount incurred by my business use of the company card was $844.26.

An itemized bill is not available to me at this time.

Edward M. Peters

A 78

PROOF OF CLAIM OF EDWARD M. PETERS - NO. 241

[Individual, Partnership or Corporation]

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF

In re Alrac Corporation
Radiation Research

Bankrupt

BANKRUPTCY NO.

PROOF OF CLAIM

Include here all names used by bankrupt within last 6 years.

1. *If claimant is an individual claiming for himself* The undersigned, who is the claimant herein, resides at * 591 Barracks Hill Rd. Ridgefield Conn.

If claimant is a partnership claiming through a member The undersigned who resides at *

is a member of a partnership, composed of the undersigned and ?

and doing business at *

and is authorized to make this proof of claim on behalf of the partnership.

If claimant is a corporation claiming through an authorized officer The undersigned, who resides at *

is the of , a corporation organized under the laws of

and doing business at *

and is authorized to make this proof of claim on behalf of the corporation.

If claim is made by agent The undersigned who resides at *

is the agent of

of * and is authorized to make this proof of claim on behalf of the claimant.

2. The bankrupt was, at the time of the filing of the petition initiating this case, and still is indebted [or liable] to the claimant, in the sum of $ $18,941.43 061-15-8534

3. The consideration for this debt [or ground of liability] is as follows: Back Wages as per contract for 1972, 1973
Above represents the differencebetween my contractual salary and amounts received on an irregular as recorded in the ledgers of the Alrac Corporation.

4. [*If the claim is founded on writing*] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [or cannot be attached for the reason set forth in the statement attached hereto].

5. [*If appropriate*] This claim is founded on an open account, which became [or will become] due on as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

6. No judgment has been rendered on the claim except

7. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. This claim is not subject to any setoff or counter-claim except

9. No security interest is held for this claim except

[*If security interest in property of the debtor is claimed*] The undersigned claims the security interest under the writing referred to in paragraph 4 hereof [or under a separate writing which (or a duplicate of which) is attached hereto, or under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

10. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 9 is sufficient to satisfy the claim. [*If priority is claimed, state the amount and basis thereof.*]

Dated: November 25, 1974 Signed: Edward M Peters

RECEIVED
DEC 5 1974

To POWER OF ATTORNEY

of * SAUL SEIDMAN
BANKRUPTCY JUDGE

The undersigned claimant hereby authorizes you, or any one of you, to act as attorney for the undersigned and with full power of substitution, to vote on any question that may be lawfully submitted to creditors of the bankrupt in the above-entitled case; [if appropriate] to vote for a trustee of the estate of the bankrupt and for a committee of creditors; to receive dividends; and in general to perform any act not constituting the practice of law for the undersigned in all matters arising in this

FILED

Dated: #241 DEC 26 1974 Signed:

[If appropriate] By As

Address:

STATE OF COUNTY OF ss.: ACKNOWLEDGMENT

INDIVIDUAL-PARTNERSHIP-CORPORATION: Acknowledged before me on

SAUL SEIDMAN
BANKRUPTCY JUDGE

RECEIVED
DEC 19 1974

PARTNERSHIP: by who says that he is a member of the partnership named above and is authorized to execute this power of attorney on its behalf.

CORPORATION: by who says that he is the of the corporation named above and is authorized to execute this power of attorney on its behalf.

SAUL SEIDMAN
BANKRUPTCY JUDGE

official character

* State post-office address.
† Street and post-office address of each partner.

PENALTY FOR PRESENTING FRAUDULENT CLAIMS.—Fine of not more than $5,000 or imprisonment for not more than five years or both—Title 18, U.S.C., Sec. 152.

A 79

PROOF OF CLAIM OF SERICO ELECTRIC CO., INC.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN THE MATTER
OF

ALRAC CORPORATION

Debtor

In Proceedings for an Arrangement Under Chapter XI of the Bankruptcy Act.
File No. 74 B 399

STATE OF Connecticut
COUNTY OF Fairfield ss.:

Mr. Frederick Serricchio, Sr. of No.
in County of State of
being duly sworn, deposes and says:

1. (a) INDIVIDUAL
That he hereinafter designates himself as claimant. (or as appears below)

(b) CO-PARTNERSHIP
That he is a member of
a co-partnership, hereinafter designated as claimant, composed of deponent and
of
and carrying on business at No.
County of State of (or as appears below)

(c) CORPORATION
That he is the President of Serico Electric Co., Inc.
a corporation organized and existing under the laws of the State of and is duly authorized to make this proof of claim on its behalf. Said corporation is hereinafter designated as the claimant.

CORPORATION ADDRESS

393 Oaklawn Avenue
Stamford, Connecticut

2. That the above named debtor was at and before the filing by said debtor of the petition for an arrangement and still is justly and truly indebted (or liable) to claimant in the sum of $ 5,178.36

3. That the consideration of said debt (or liability) is as follows: Goods, wares and merchandise sold and delivered to the said debtor at the special instance and request of said debtor at the agreed price and reasonable value set forth in the annexed statement which is made a part hereof.

4. That no part of said debt (or liability) has been paid. That there are no set-offs or counterclaims to said debt (or liability). That claimant does not hold, and has not, nor has any person by his order, or to deponent's knowledge or belief for his use had or received any security or securities for said debt (or liability). That the instrument upon which said debt is founded is attached hereto. That no note or other negotiable instrument has been received for such account or any part thereof (or that the said debt is evidenced by a note (or other negotiable instrument), which is attached hereto); that no judgment has been rendered thereon, except

POWER OF ATTORNEY

TO ALRAC CREDITORS' COMMITTEE, WILLIAM N. OTTE, SECRETARY

The undersigned, of
City of State of
does hereby authorize you, or any one of you, or your representative with full power of substitution, to attend all meetings of creditors of the debtor aforesaid, and all adjournments thereof, at the places and times appointed by the court, and for the undersigned and in the name of the undersigned, to vote for or against any proposal or resolution that may be then submitted under the Act of Congress relating to bankruptcy, to vote for a trustee or trustees of the estate of the said debtor and for a committee of creditors, to accept any arrangement or wage-earner's plan proposed by said debtor in satisfaction of his debts, and to receive payment of dividends, and payment or delivery of money or of other consideration due the undersigned under such arrangement or wage-earner's plan, and for any other purpose in the undersigned's interest whatsoever; and with like powers to attend and vote at any other meeting or meetings of creditors, or sitting or sittings of the court, which may be held thereon for any of the purposes aforesaid. All prior powers of attorney are hereby revoked.

IN WITNESS WHEREOF the undersigned has hereunto signed his name and affixed his seal the
day of Dec. 10 1974

RECEIVED
DEC 23 1974
FILED
DEC 30 1974
SAUL SEIDMAN
BANKRUPTCY JUDGE

Sworn to before me this
of November 1974, said subscriber
being known to me to be the person described in and who signed and swore to the above instruments and duly acknowledged that he executed them and was authorized to execute them.

Frederick Serricchio (L. S.)
Sign name of individual, partner or officer here

Frederick Serricchio (L. S.)
Sign name of firm here

Lesley A. Sennett
Notary Public or Commissioner of Deeds

SAUL SEIDMAN
BANKRUPTCY JUDGE

#272

Annex duplicate of your invoice
Corporation affix seal here

A 80

Proof of Claim of Serico Electric Co., Inc.

Serico Electric Company

ESTABLISHED 1934

INDUSTRIAL AND COMMERCIAL
ELECTRICAL INSTALLATION

Telephone 327-4276

393 OAKLAWN AVENUE
STAMFORD, CONN. 06905

January 2, 1974

AL RAC CORPORATION
649 Hope Street
Stamford, Connecticut 06905

Bal. fr. 1972		$3372.37
2/26/73	Invoice #1016	291.50
2/26/73	" #1017	830.00
6/12/73	" #1074	(182.60)
7/17/73	" #1088	219.00
12/1/73	" # 606	235.25
12/18/73	" #1051	47.64

Did not receive. Called & requested bill-did not receive

Vouchered in J A J

JAN 1974

TOTAL AMOUNT DUE $5178.00

5,178.36

A 81

PROOF OF CLAIM OF MITSUBISHI INTERNATIONAL CORP.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT

IN THE MATTER OF

ALRAC CORPORATION

Debtor

In Proceedings for an Arrangement Under Chapter XI of the Bankruptcy Act

File No. 74 B 329

STATE OF NEW YORK
CITY COUNTY OF New York ss.:

Mr. Toshihiro Tomabechi of No. 45 East 89th Street
in CITY COUNTY of New York State of New York
being duly sworn, deposes and says:

1. (a) INDIVIDUAL

That he hereinafter designates himself as claimant. (or as appears below)

(b) CO-PARTNERSHIP

That he is a member of
a co-partnership, hereinafter designated as claimant, composed of deponent and
of
and carrying on business at No.
County of State of (or as appears below)

(c) CORPORATION

That he is the Sr. Executive Vice President of Mitsubishi International Corporation
a corporation organized and existing under the laws of the State of New York and is
duly authorized to make this proof of claim on its behalf. Said corporation is hereinafter designated as the claimant.

CORPORATION ADDRESS 277 Park Avenue
New York, New York 10017

2. That the above named debtor was at and before the filing by said debtor of the petition for an arrangement and still is justly and truly indebted (or liable) to claimant in the sum of $ 16,191.25

3. That the consideration of said debt (or liability) is as follows: Goods, wares and merchandise sold and delivered to the said debtor at the special instance and request of said debtor at the agreed price and reasonable value set forth in the annexed statement which is made a part hereof.

4. That no part of said debt (or liability) has been paid. That there are no set-offs or counterclaims to said debt (or liability). That claimant does not hold, and has not, nor has any person by his order, or to deponent's knowledge or belief for his use had or received any security or securities for said debt (or liability). That the instrument upon which said debt is founded is attached hereto. That no note or other negotiable instrument has been received for such account or any part thereof (or that the said debt is evidenced by a note (or other negotiable instrument), which is attached hereto), that no judgment has been rendered thereon, except

POWER OF ATTORNEY

TO ALRAC CREDITORS' COMMITTEE, WILLIAM N. OTTE, SECRETARY

The undersigned, of State of
City of
does hereby authorize you, or any one of you, or your representative with full power of substitution, to attend all meetings of creditors of the debtor aforesaid, and all adjournments thereof, at the places and times appointed by the court, and for the undersigned and in the name of the undersigned, to vote for or against any proposal or resolution that may be then submitted under the Act of Congress relating to bankruptcy, to vote for a trustee or trustees of the estate of the said debtor and for a committee of creditors, to accept any arrangement or wage-earner's plan proposed by said debtor in satisfaction of his debts, and to receive payment of dividends, and payment or delivery of money or of other consideration due the undersigned under such arrangement or wage-earner's plan, and for any other purpose in the undersigned's interest whatsoever; and with like powers to attend and vote at any other meeting or meetings of creditors, or meeting or sittings of the court, which may be held therein for any of the purposes aforesaid. All prior powers of attorney are hereby revoked.

IN WITNESS WHEREOF the undersigned has hereunto signed his name and affixed his seal the
day of 19

Sworn to before me this
of 19 , said subscriber
being known to me to be the person described in and who signed and swore to the above instruments and duly acknowledged that he executed them and was authorized to execute them

FILED RECEIVED

DEC 30 1974

SAUL SEIDMAN
BANKRUPTCY JUDGE

Notary Public or Commissioner of Deeds

BILL T. ONO
NOTARY PUBLIC, State of New York
No. 41-8224668
Qualified in Queens County

#273

Sign name of individual, partner or officer here
Toshihiro Tomabechi, Sr. Executive Vice President (L. S.)

SAUL SEIDMAN
BANKRUPTCY JUDGE (L. S.)

Sign name of firm here
MITSUBISHI INTERNATIONAL CORPORATION

Annex duplicate of your invoice
Corporation affix seal here

A 82

Proof of Claim of Mitsubishi International Corp.

CABLE ADDRESS:
MITSUBISHI NEW YORK

TELEPHONE
922 3700
(AREA CODE 212)

MITSUBISHI INTERNATIONAL CORPORATION
277 PARK AVENUE
NEW YORK, N. Y. 10017

OUR REF. NO. CC-46-64
DATE December 11, 1973

Alrac Corporation
640 Hope Street
Stamford, Connecticut 06906

Attention: Mr. A. B. Stryker, Jr.

RE: 2-PYRROLIDONE
OUR CONTRACT CHA-C-0408
OUR INVOICE CHA-D-0605

Dear Mr. Stryker:

In reference to the outstanding amount of $16,191.25 for the sale of the above product, we wish to confirm our conversation of this morning that your merger agreement is shortly to be finalized and that you expect to settle the outstanding amount in total by end of December or latest first week of January, 1974, or in any event, whenever your arrangements are concluded.

Although we were much disappointed that no payment was made since August dispite your repeated assurance to resume monthly installments, we will agree to your new proposal mentioned above. Naturally we wish you to reimburse us any interest that was accrued by your delayed payments.

Please sign and return one copy of this letter in acknowledgement of above.

Very truly yours,

MITSUBISHI INTERNATIONAL CORP.

J. Kamimura, Manager
Chemicals Dept.

ACKNOWLEDGED:

ALRAC CORPORATION

A. B. Stryker, Jr.

A 83

PROOF OF CLAIM OF EDWARD M. PETERS - NO. 274

Individual, Partnership or Corporation

Power of Attorney

60 Exchange Pl. at Broadway, N. Y. C. 100

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONN.

In re Alrac Corp.

Bankrupt

Include here all names used by bankrupt within last 6 years.

BANKRUPTCY NO. B-74-399

PROOF OF CLAIM

1. If claimant is an individual claiming for himself The undersigned, who is the claimant herein, resides at * 391 Barrack Hill Rd Ridgefield Conn.

If claimant is a partnership claiming through a member The undersigned who resides at *

is a member of a partnership, composed of the undersigned and †

and doing business at *

and is authorized to make this proof of claim on behalf of the partnership.

If claimant is a corporation claiming through an authorized officer The undersigned, who resides at *

is the of , a corporation organized under the laws of

and doing business at *

and is authorized to make this proof of claim on behalf of the corporation.

If claim is made by agent The undersigned who resides at *

is the agent of

of * and is authorized to make this proof of claim on behalf of the claimant.

2. The bankrupt was, at the time of the filing of the petition initiating this case, and still is indebted [or liable] to the claimant, in the sum of $ 18,941.43

3. The consideration for this debt [or ground of liability] is as follows: The above represents the difference between compensation received and that due under employment contract

4. [*If the claim is founded on writing*] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [or cannot be attached for the reason set forth in the statement attached hereto].

5. [*If appropriate*] This claim is founded on an open account, which became [or will become] due on as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

6. No judgment has been rendered on the claim except

7. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. This claim is not subject to any setoff or counter-claim except

9. No security interest is held for this claim except

[*If security interest in property of the debtor is claimed*] The undersigned claims the security interest under the writing referred to in paragraph 4 hereof [or under a separate writing which (or a duplicate of which) is attached hereto, or under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

10. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 9 is sufficient to satisfy the claim. [*If priority is claimed, state the amount and basis thereof.*]

Dated: 12/20/74

Signed: Edward M Peters

POWER OF ATTORNEY

To

of *

FILED

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned and with full power of substitution, to vote on any question that may be lawfully submitted to creditors of the bankrupt in the above-entitled case; [if appropriate] to vote for a trustee of the estate of the bankrupt and for a committee of creditors; to receive dividends and in general to perform any act not constituting the practice of law for the undersigned in all matters arising in this case.

DEC 30 1974

Dated:

#274

Signed:

As

SAUL SEIDMAN BANKRUPTCY JUDGE

Address:

RECEIVED

ACKNOWLEDGMENT

DEC 23

STATE OF COUNTY OF ss.:

INDIVIDUAL-PARTNERSHIP-CORPORATION: Acknowledged before me on

PARTNERSHIP: by who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

CORPORATION: by who says that he is the of the corporation named above and is authorized to execute this power of attorney in its behalf.

SAUL SEIDMAN BANKRUPTCY JUDGE

official character

* Insert post-office address.

† Insert and post-office address of each partner.

PENALTY FOR PRESENTING FRAUDULENT CLAIMS.—Fine of not more than $5,000 or imprisonment for not more than five years or both—Title 18, U.S.C., Sec. 152.

EXCERPTS FROM CLAIMS REGISTER

NAME OF BANKRUPT/DEBTOR: ALRAC CORP.

DOCKET NO.: B-74-399

CLAIM NO.	NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any)	AMOUNT OF CLAIMS FILED AND ALLOWED	REMARKS
73	DATE FILED: 12-6-74 A. B. Stryker, Jr. Birch Hill Rd. Locust Valley, New York 11560 (Blue cross)3/74	FILED $ 134.82 ALLOWED $	
74	DATE FILED: 12-6-74 A. B. Stryker, Jr. Birch Hill Rd. Locust Valley, New York 11560 (Blue Cross 9/73)	FILED $ 134.82 ALLOWED $	
75	DATE FILED: 12-6-74 A. B. Stryker, Jr. Birch Hill Rd. Locust Valley, New York 11560 (Blue Cross 10/73)	FILED $ 134.82 ALLOWED $	
76	DATE FILED: 12-6-74 Edward M. Peters 591 Barrack Hill Rd. Ridgefield, Conn. (Blue cross 9-74)	FILED $ 134.82 ALLOWED $	
77	DATE FILED: 12-6-74 Edward M. Peters 591 Barrack Hill Rd. Ridgefield, Conn. (Blue Cross 10-73)	FILED $ 134.82 ALLOWED $	
78	DATE FILED: 12-6-74 Edward M. Peters 591 Barrack Hill Rd. Ridgefield, Conn. (Blue Cross 12/73)	FILED $ 134.82 ALLOWED $	
79	DATE FILED: 12-6-74 Edward M. Peters 591 Barrack Hill Rd. Ridgefield, Conn. (Blue Cross 3/74)	FILED $ 134.82 ALLOWED $	
80	DATE FILED: 12-6-74 Analytical Measurements, Inc. % R & W Otte, Inc. 142 Lexington Ave. New York, New York 10016	FILED $ 168.00 ALLOWED $	
81	DATE FILED: 12-6-74 Giacomini, Halloran, Cecchiri % R & W Otte, Inc. 142 Lexington Ave. New York, New York 10016	FILED $ 680.00 ALLOWED $	

FORM 33 75 - REVISED SEP. 1965

CLAIMS REGISTER

UNITED STATES DISTRICT COURTS

Excerpts from Claims Register

ALRAC CORP.		B-74-399
CLAIM NO. / NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any)	AMOUNT OF CLAIMS FILED AND ALLOWED	REMARKS
217 DATE FILED: 12-17-74 Kenneth M. Royall % Greenfield, Krick & Jacobs 900 Chapel St. New Haven, Conn.	FILED $ 10,854.00 ALLOWED $	
218 DATE FILED: 12-17-74 Mrs. Barbara Rubin % Greenfield, Krick & Jacobs 900 Chapel St. New Haven, Conn.	FILED $ 21,708.00 ALLOWED $	
219 DATE FILED: 12-17-74 Alvin Sadowsky % Greenfield, Krick & Jacobs 900 Chapel St. New Haven, Conn;	FILED $ 5,427.00 ALLOWED $	
220 DATE FILED: 12-17-74 Mark Lucas Wakeman Custodian David G. Wakeman III % Greenfield, Krick & Jacobs 900 Chapel St. New Haven, Conn.	FILED $ 3,256.20 ALLOWED $	
221 DATE FILED: 12-17-74 Lawrence Kendrick Wakeman Custodian David Wakemann III % Greenfield, Krick & Jacobs 900 Chapel St. New Haven, Conn.	FILED $ 3,256.20 ALLOWED $	
222 DATE FILED: 12-18-74 Jay Gervasi 74 Canoe Brook Rd. Trumbull, Conn. 06611 (American Express)	FILED $ 11.27 ALLOWED $	
223 DATE FILED: 12-18-74 Jay Gervasi 74 Canoe Brook Rd. Trumbull, Conn. 06611	FILED $ 191.14 ALLOWED $	
224 DATE FILED: 12-18-74 Jay Gervasi 74 Canoe Brook Rd. Trumbull, Conn. 06611 (Blue Cross)	FILED $ 579.28 ALLOWED $	
225 DATE FILED: 12-18-74 James L. Van Allen 61 Ursula Place Stamford, Conn. (Blue Cross)	FILED $ 134.82 ALLOWED $	

FORM JS 79 - REVISED SEP. 1962 — CLAIMS REGISTER — UNITED STATES DISTRICT COURTS

Excerpts from Claims Register

CLAIM NO.	NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any)	AMOUNT OF CLAIMS FILED AND ALLOWED	REMARKS
226	DATE FILED: 12-18-74 James L. Van Allen 61 Ursula Place Stamford, Conn.	FILED $ 134.82 ALLOWED $	
227	DATE FILED: 12-18-74 James L. Van Allen 61 Ursula Place Stamford, Conn.	FILED $ 134.82 ALLOWED $	
228	DATE FILED: 12-18-74 James L. Van Allen 61 Ursula Place Stamford, Conn.	FILED $ 134.82 ALLOWED $	
229	DATE FILED: 12-18-74 American Barmag Corp. % R & W Otte, Inc. 142 Lexington Ave. New York, New York 10016	FILED $ 206.00 ALLOWED $	
230	DATE FILED: 12-18-74 Charles Grayson 1260 Hope St. Stamford, Conn. 06907	FILED $ 1,900.72 ALLOWED $	
231	DATE FILED: 12-18-74 Charles Grayson 1260 Hope St. Stamford, Conn.	FILED $ 593.71 ALLOWED $	PRIORITY - Wages
232	DATE FILED: 12-18-74 Robert E. Rhodes 691 South Orange Grove Ave. Pasadena, Calif. 91105	FILED $ 11,650.81 ALLOWED $	Accept, plan
233	DATE FILED: 12-18-74 A. B. Stryker, Jr. Birch Hill Rd. Locust Valley, New York 11560	FILED $ 7,715.36 ALLOWED $	PRIORITY - Wages
234	DATE FILED: 12-19-74 Douglas Leigh % R & W Otte, Inc. 142 Lexington Ave. New York, New York	FILED $ 3,000.00 ALLOWED $	Amt of $256.20 added to claim 296

FPI 81—8-1-75-5000-7500

A 87

Excerpts from Claims Register

	ALRAC CORP.		B-74-399
CLAIM NO.	NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any)	AMOUNT OF CLAIMS FILED AND ALLOWED	REMARKS
235	DATE FILED: 12-20-74 Charles Grayson 1260 Hope St. Stamford, Conn. 06907	FILED $ 2,424.07 ALLOWED $	PRIORITY - Wages
236	DATE FILED: 12-26-74 Chemelex, Inc. % R & W Otte, Inc. 142 Lexington Ave New York, New York 10016	FILED $ 242.61 ALLOWED $	
237	DATE FILED: 12-26-74 William and Margaret Hoffman % R & W Otte, Inc. 142 Lexington Ave. New York,,New York	FILED $ 2,000.00 ALLOWED $	
238	DATE FILED: 12-26-74 Leesona Corp. % R & W Otte, Inc. 142 Lexington Ave. New York, New York	FILED $ 826.30 ALLOWED $	
239	DATE FILED: 12-26-74 McKinley & Co. % R & W Otte, Inc. 142 Lexington Ave. New York, New York	FILED $ 1,000.00 ALLOWED $	
240	DATE FILED: 12-26-74 Edward Peters 591 Barrack Hill Rd. Ridgefield, Conn.	FILED $ 844.26 ALLOWED $	
241	DATE FILED: 12-26-74 Edward Peters 591 Barracks Hill Rd. Ridgefield, Conn.	FILED $ 18,941.43 ALLOWED $	PRIORITY - Wages
242	DATE FILED: 12-26-74 Robert R. Just % Greenfield, Krick & Jacobs 900 Chapel St. New Haven, Conn.	FILED $ 1,085.40 ALLOWED $	
243	DATE FILED: 12-26-74 Veron W. and Joan M. Cafarella % Greenfield, Krick & Jacobs 900 Chapel St. New Haven, Conn.	FILED $ 4,341.60 ALLOWED $	

FORM 33-75 - REVISED SEP. 1968

CLAIMS REGISTER

UNITED STATES DISTRICT COURTS

Excerpts from Claims Register

ALRAC CORP.		B-74-399
CLAIM NO. / NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any)	AMOUNT OF CLAIMS FILED AND ALLOWED	REMARKS
271 DATE FILED: 12-30-74 David G. Wakeman III 3 Seagate Rd. Riverside, Conn. 06878	FILED $ 36,282.88 ALLOWED $	
272 DATE FILED: 12-30-74 Serico Electric Co., Inc. % R & W Otte, Inc. 142 Lexington Ave. New York, New York	FILED $ 5,178.36 ALLOWED $	
273 DATE FILED: 12-30-74 Mitsubishi International Corp % R & W Otte, Inc. 142 Lexington Ave. New York, New York	FILED $ 16,191.25 ALLOWED $	
274 DATE FILED: 12-30-74 Edward M. Peters 591 Barrack Hill Rd. Ridgefield, Conn.	FILED $ 18,961.43 ALLOWED $	
275 DATE FILED: 12-30-74 Robert Bruce House of Cameras % R & W Otte, Inc. 142 Lexington Ave. New York, N.Y.	FILED $ 247.20 ALLOWED $	
276 DATE FILED: 12-30-74 Freight Express International Inc. % R & W Otte, Inc. 142 Lexington Ave. New York, N.Y.	FILED $ 164.36 ALLOWED $	
277 DATE FILED: 12-30-74 Morgan Guaranty Trust Co. of New York % R & W Otte, Inc. 142 Lexington Ave. New York, N.Y.	FILED $ 10,087.69 ALLOWED $	
278 DATE FILED: 12-30-74 Sweco, Inc. % R & W Otte, Inc. 142 Lexington Ave. New York, New York	FILED $ 159.75 ALLOWED $	
279 DATE FILED: 12-30-74 Dan Stuart Tucker % R & W Otte, Inc. 142 Lexington Ave. New York, N.Y.	FILED $ 1,000.00 + ALLOWED $	int.

FORM DN 75 - REVISED SEP. 1968

CLAIMS REGISTER

UNITED STATES DISTRICT COURTS

A 89

COMPUTATION OF VOTE ON ARRANGEMENT

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

In the Matter of

ALRAC CORPORATION No. B-74-399

COMPUTATION OF VOTE ON ARRANGEMENT

The undersigned having reviewed the court records as of this date, states that the Proofs of Claim relating to Class I creditors as per Exhibits I and II annexed hereto, and as to Class II creditors as per Exhibits III and IV annexed hereto, and as to Class III creditors as per Exhibit V annexed hereto, indicate that that majority in number and amount have approved the proposed Arrangement.

Dated at Hartford, Connecticut, this 20th day of December, 1974.

ALRAC CORPORATION

By: _____

Approved by the Creditors' Committee:

By: _____
John H. Krick, Co-Counsel

Computation of Vote on Arrangement

SUMMARY OF EXHIBITS I & II

CLASS I CREDITORS

Number Filed	58
Unaffected (less than $100.00)	13
Total Entitled to vote	45
Voting in Favor	32
Not voting in favor	13
Amount filed	$ 93,335.09
Voting in Favor	$ 67,192.37
Not voting in favor	$ 26,142.72

Computation of Vote on Arrangement

EXHIBIT I

CONSENTING CLASS I. CREDITORS

CLAIM NO.	NAME OF CREDITOR	AMOUNT
2	American Bank Note Co.	202.23
12	Lessona Corp.	826.30
17	Cory Coffee Service Plan, Inc.	219.78
39	Dynisco Div. of BBF Group, Inc.	400.00
34	Dawson-Macdonald Co., Inc.	118.21
35	The Wallace Co.	101.29
40	Ernst Gage Co.	39.04
41	Industrial Combustion, Inc.	109.92
42	Plastics Institute of America	295.00
53	R. Gelb & Sons, Inc.	1,275.00
54	Hermann Forwarding Co.	224.12
55	C. O. Jelliff Corp.	285.90
56	McCrelis Welding Supply	2,758.50
57	Vibra Screw, Inc.	1,618.84
80	Analytical Measurements, Inc.	168.00
81	Giacomini, Halloran, Cecchiri	680.00
~~99~~	~~Stevens Public Relations, Inc.~~	~~14,664.81~~
100	A. C. Electric Motor Repair, Co.	179.34
101	Computer Cable Corp.	250.00
102	The Hartford Electric Light Co.	2,473.10
103	Interstate Industrial Supplies of Conn.	16.96
104	Olin Corp.	255.63
105	SGA Scientific, Inc.	131.06

EXHIBIT I (con.)

CONSENTING CLASS I CREDITORS

CLAIM NO.	NAME OF CREDITOR	AMOUNT
147	Bock Laundry Machine Co.	607.57
~~148~~	~~The Conn. Plumbing Supply Co.~~	~~3,593.42~~
149	Fair-View Camera Shop	127.18
150	K & P Tool and Machine Co., Inc.	45.00
151	Whitefoord S. Mays	2,250.00
152	F. F. Slocomb Corp.	637.15
70,72,73,74,75, 82, 233	A. B. Stryker, Jr.	3,873.70
76,77,78,79 and ___	Edward M. Peters	19,480.71
	Serico Electric Co., Inc.	5,178.36
222	Jay Gervasi	11.27
223	Jay Gervasi	191.14
224	Jay Gervasi	539.28
229	American Barmag Corporation	206.00
	The Hawley Hardware Co.	47.18
	Mitsubishi International Corporation	16,191.25
	Serico Electric Co., Inc.	5,178.36
TOTAL		67,192.37

Computation of Vote on Arrangement

EXHIBIT II

CLASS I CREDITORS NOT CONSENTING

CLAIM NO.	NAME OF CREDITOR	AMOUNT
1	Master Appliance Corp.	97.22
4	Xerox Corp.	2,289.43
7	Arconn, Inc.	197.46
8	C. T. Corp. System	190.00
9b	Barnstead Co. Div. of Sybron Corp.	710.79
11	The Marle Co., of Stamford	363.55
14	Industrial Safety Supply Co., Inc.	22.91
16	Crystal Rock Spring Water Co.	87.54
19	Eutectic Corp.	33.20
20	Magnetic Seal Corp.	50.00
22	Pennwalt Corp.	431.50
23	Reliance Electric Co.	77.04
24	Hewlett Packard Co.	241.74
32	Chemetron Corporation	620.40
33	Consolidated Freightways Corp.	118.98
37	The Park City Supply Co.	79.86
44	Stewet Miller Associates, Inc.	77.02
58, 59, 60, 61	Charles Grayson	539.28
83	Mallinckrodt, Inc.	1,656.57
99	Stevens Public Relations, Inc.	14,664.81
148	The Conn. Plumbing Supply Co.	3,593.42
TOTAL		26,142.72

Computation of Vote on Arrangement

SUMMARY OF EXHIBITS III & IV

CLASS II CREDITORS

Number Filed	43
Unaffected (less than $100.00)	0
Total entitled to vote	43
Voting in Favor	37
Not voting in favor	6
Amount filed	$ 2,389,976.37
Voting in Favor	$ 1,761,043.57
Not voting in favor	$ 628,932.80

Computation of Vote on Arrangement

EXHIBIT III

CONSENTING CLASS II CREDITORS

CLAIM NO.	NAME OF CREDITOR	AMOUNT
26	Dominion Textile Limited	232,125.34
36	Edward W. Meyer	11,250.00
43	Herbert O. Anderson	127,570.91
45,47,48,49,50	William D. Cutler	76,270.00
46,51	Estate of A. Richard Cutler	19,479.13
52	Edward Dermott	26,503.19
69	James D. Geerdes	172,261,00
71	A. B. Stryker, Jr.	59,949.37
106	Robert C. Fulton	34,092.87
112, 123	McWilliams Associates	96,524.65
111	Mrs. Hilda Balik	10,656.48
114	The Charfield Co.	26,838.86
115	Philip Snyder	22,280.71
116	Edward Thomas	17,656.25
117	James T. Wenman	29,012.23
118	John D. Winter	32,605.42
119	Charles T. Neale	55,990.00
120	Martin Seldeen	11,054.80
121	Frank Snyder	55,705.22
122	John W. Little, II	16,227.70
124	Moore & Munger, Inc.	49,537.51
125	James J. Murphy	13,947.43
126	Joseph Hochstim and Ester S. Hochstim	17,409.50

EXHIBIT III (con.)

CONSENTING CLASS II CREDITORS

CLAIM NO.	NAME OF CREDITOR	AMOUNT
127	Lorraine E. Hanford	5,499.95
128	Jeffrey S. Granger	11,605.07
129	John C. Geupel	27,234.59
131	Charles B. Kish	1,600.00
132	Marion Neale Honsaker	10,802.74
133	Russell W. Schaffer	17,416.50
134	James K. McWilliams	16,121.92
135	John R. Dugan	285,030.00
138	Margaret Snickles	5,336.91
139	Thomas E. Bogert and Marjorie H. Bogert	14,505.61
	Joseph A. Savoca	28,895.83
	David G. Wakeman III	36,282.88
	Wolfe & Wolfe	53,963.00
113	Arthur Andersen & Co.	48,800.00
TOTAL		1,761,043.57

Computation of Vote on Arrangement

EXHIBIT IV

CLASS II CREDITORS NOT CONSENTING

CLAIM NO.	NAME OF CREDITOR	AMOUNT
18	Basf Wyandotte Corp.	21,311.57
28	Sarah E. Barnes	74,570.92
38	First National City Bank	21,251.85
130	Jeffrey Granger	27,247.65
29,30	Carl E. Barnes	472,900.00
232	Robert E. Rhodes	11,650.81
TOTAL		628,932.80

Computation of Vote on Arrangement

SUMMARY OF EXHIBIT V

CLASS III CREDITORS

Number Filed	100
Unaffected (less than $100.00)	0
Total entitled to vote	100
Voting in Favor	100
Not voting in favor	0
Amount filed	$1,206,407.95
Voting in Favor	$1,206,407.95
Not voting in favor	$ 00

EXHIBIT V

CONSENTING CLASS III CREDITORS

CLAIM NO.	NAME OF CREDITOR	AMOUNT
62	Michael Jugovich	6,512.40
63	Robert A. Lebo	8,683.20
64	Ruth Steinberg	5,000.00
65	Kenneth Svenson	15,195.60
66	Gary Verplank	10,000.00
67	Harold L. Warren	3,253.50
84	William Wagner	3,000.00
85	E. Beghart Zollers	5,000.00
86	Raymond J. Barbano	5,000.00
87	Edward Lee Bryan	41,000.00
88	Arthur B. Griffith	5,427.00
89	Mrs. Lorraine E. Hanford	2,170.80
90	William E. Hanford	5,427.00
91	Charles B. Kish	5,727.00
92	Rugus S. Longenecker	1,000.00
93	Miss Frances A. Stancheski	4,341.60
94	Joel C. Stein	10,000.00
95	Mrs. Charmion K. Tobin	10,000.00
96	Louis S. Weeks, Jr.	4,256.20
97	Mrs. Teresa H. Weeks	2,170.80
98	George W. Zepko	1,085.40
136	Oliver P. Minihane	7,000.00
137	Sidney Fluke	2,000.00

Computation of Vote on Arrangement

EXHIBIT V (con.)

CONSENTING CLASS III CREDITORS

CLAIM NO.	NAME OF CREDITORS	AMOUNT
140	Mrs. Lydia L. Cameron	5,000.00
141	Birney & Co.	100,000.00
142	Hare & Co.	176,000.00
143	Mrs. Virginia A. Basler	1,000.00
144	John and Lillian Flannelly	1,085.40
145	Mrs. Helen Kropf	2,000.00
146	Marshall Sorkin	3,256.20
154	John K. Barrow, III	17,366.40
155	William A. Blum	4,597.80
156	Mr. L. David Bollinger	5,427.00
157	Harry F. Bott	5,427.00
158	Peter J. Campbell	2,170.80
159	Miss Jennifer Dickson	1,085.40
160	Mrs. Arline Feldman	4,341.60
161	Abraham Feldman	4,341.60
162	William Feldman	8,683.20
163	Phillip T. and Beth L. Funke	5,427.00
164	George R. Hinckley	2,170.80
165	Mr. C. Thomas Lunghard	27,135.00
166	Sam W. Hitch	7,597.80
167	Steven V. Just	11,939.40
168	Michael Jugovich	3,256.20
169	Leo J. Kirmayer	6,512.40
153	Richard C. Allen	7,597.80

Computation of Vote on Arrangement

EXHIBIT V (con.)

CONSENTING CLASS III CREDITORS

CLAIM NO.	NAME OF CREDITORS	AMOUNT
170, 207, 208	Kirk C. Kirkorian, Jr.	51,476.60
171	Eric B. Langslet	11,939.40
172	Miss Rina London	6,512.40
173	Mrs. Carolina C. Madamba	1,085.40
174	James J. and Audrey J. Meyers	5,427.00
175	Jesus J. Miguel	1,085.40
176	David A. Newbauer	10,854.00
177	Melvin Nimoy	7,597.80
178	Henry J. and Dorothea O'Pat	1,085.40
179	John Phillips	5,427.00
180	Raymond Rathka	17,366.40
181	Roy E. Rathka, Jr.	10,854.00
182	Mrs. Mary B. Rintoul	23,878.80
183	Ernest E. Rosenberg	16,281.00
184	Miss Esther Robinson	1,085.40
185	Daniel and Mary Savitsky	9,768.60
186	Robert C. Smith	4,341.60
187	David Sugarman	1,085.40
188	Richard A. Svenson	2,170.80
189	Elmer Tangerman	5,427.00
190	David G. Wakeman III	11,939.40
191	Lawrence Kendrick Wakeman David G. Wakeman III custodian	14,110.20
192	Mark Lucas Wakeman David G. Wakeman III custodian	13,024.80

Computation of Vote on Arrangement

EXHIBIT V (con.)

CONSENTING CLASS III CREDITORS

CLAIM NO.	NAME OF CREDITOR	AMOUNT
193	Ronald Richard Weber	1,085.40
194	Edwin Wilson, Jr.	5,427.00
195	William H. Whittemore	10,854.00
196	Miss Daphne J. Wray	2,170.80
197	Eugene Wollan	2,170.80
198	G. W. Zepko	16,281.00
199	Richard C. Allen	18,451.80
200	David W. Almquist	10,854.00
201	Ann T. Dickson, custodian for Amy Dickson	1,085.40
202	Carl P. Jayson	59,697.00
203	Seymour Holtzman and Frank P. Cuscela	44,501.40
204	W. Thomas Jackson	5,427.00
205	Donald J. Johnston	7,597.80
206	Mrs. Cordy Kirkorian	7,597.80
209	Henry and Shirley Jean Leong	1,085.45
210	Robert Bamber Marshall	5,427.00
211	Peter M. Moschera	6,512.40
212	Miss Gerda Neumann	1,085.40
213	Henry Orrin & Co.	10,854.00
214	Anna M. Portz	1,085.40
215	Mrs. Virginia Ann Raynolds	13,024.80
216	Miss Naomi Rosenberg	1,085.40

EXHIBIT B (con.)

CONSENTING CLASS III CREDITORS

CLAIM NO.	NAME OF CREDITOR	AMOUNT
	GHS Partnership	66,209.40
	Martin Seldeen	48,843.00
217	Kenneth M. Royall	10,854.00
218	Mrs. Barbara Rubin	21,708.00
219	Alvin Sadowsky	5,427.00
220	Mark Lucas Wakeman, David Wakeman, III, custodian	3,256.20
221	Lawrence Kendrick Wakeman, David Wakeman III, custodian	3,256.20
68	Gerlach & Co.	3,000.00
		1,206,407.95

EXHIBIT VI

DUPLICATES, AMENDMENTS, ETC.

CLAIM NO.	NAME OF CREDITOR
3	Vibra Screw, Inc.
6	Jelliff Corp.
10.	The Connecticut Plumbing Supply Co.
21	Dawson-Macdonald Co., Inc.
15	Hartford Electric Light Co.
31	Dynisco Div. of BBF Group, Inc.

EXHIBIT VII

PRIORITY AND WAGE CLAIMS

CLAIM NO.	NAME OF CREDITOR	AMOUNT
5	Internal Revenue Service	17,340.29
13	Collector of Taxes, City of Stamford	17,915.34
25	State of Connecticut, Tax Dept.	50.00
27	Carl Barnes	2,083.50
107	Wm. Forni, Trustee for Bryan & Lynne	2,000.00
108, 110	Rubach & Olmo, DDS, Inc.	11,000.00
109	William C, Rubach	1,000.00
231	Charles Grayson	595.71
TOTAL		60,904.20

A 106

AMENDED COMPUTATION RE CLASS I CREDITORS

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

In the Matter of

ALRAC CORPORATION No. B-74-399

AMENDED COMPUTATION RE CLASS I CREDITORS

The undersigned hereby amends the computation of vote on arrangement as to Class I creditors as per the annexed amended Exhibit I and amended Summary of Exhibits I and II.

Dated at New Haven, Connecticut, this 23d day of December, 1974.

ALRAC CORPORATION

By: _____
Gerald W. Brownstein

Approved by the Creditors' Committee:

By: _____
John H. Krick, Co-Counsel

A 107

Amended Computation Re Class I Creditors

AMENDED SUMMARY OF EXHIBITS I & II

CLASS I CREDITORS

Number Filed	55
Unaffected (less than $100.00)	12
Total Entitled to vote	43
Voting in Favor	30
Not Voting in favor	13
Amount filed	$ 88,156.73
Voting in Favor	62,014.01
Not voting in favor	26,142.72

Amended Computation Re Class I Creditors

AMENDED
EXHIBIT I

CONSENTING CLASS I CREDITORS

CLAIM NO.	NAME OF CREDITORS	AMOUNT
2	American Bank Note Co.	202.23
12	Lessona Corp.	826.30
17	Cory Coffee Service Plan, Inc.	219.78
39	Dynisco Div. of BBF Group, Inc.	400.00
34	Dawson-MacDonald Co., Inc.	118.21
35	The Wallace Co.	101.29
30	Ernst Gage Co.	39.04
41	Industrial Combustion, Inc.	109.92
42	Plastics Institute of America	295.00
53	R. Gelb & Sons, Inc.	1,275.00
54	Hermann Forwarding Co.	224.12
55	C. O. Jelliff Corp.	285.90
56	McCrelis Welding Supply	2,758.50
57	Vibra Screw, Inc.	1,618.84
80	Analytical Measurements, Inc.	168.00
81	Giacomini, Halloran, Cecchiri	680.00
100	A. C. Electric Motor Repair Co.	179.34
101	Computer Cable Corp.	250.00
102	The Hartford Electric Light Co.	2,473.10
103	Interstate Industrial Supplies of Conn.	16.96
104	Olin Corp.	255.63
105	SGA Scientific, Inc.	131.06

EXHIBIT I (con.)

CONSENTING CLASS I CREDITORS

CLAIM NO.	NAME OF CREDITORS	AMOUNT
147	Bock Laundry Machine Co.	607.57
149	Fair-View Camera Shop	127.18
150	K & P Tool and Machine Co., Inc.	45.00
151	Whitefoord S. Mays	2,250.00
152	F. F. Slocomb Corp.	637.15
70,72,73,74,75, 82, 233	A. B. Stryker, Jr.	3,873.70
76,77,78,79,____	Edward M. Peters	19,480.71
_____, ___	Serico Electric Co., Inc.	5,178.36
222,223,224,	Jay Gervasi	741.69
229	American Barmag Corporation	206.00
	The Hawley Hardware Co.	47.18
	Mitsubishi International Corporation	16,191.25
Total		62,014.01

A 110

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF CONNECTICUT

IN THE MATTER OF:	
ALRAC CORPORATION, debtor	Bankruptcy No. B-74-399
	Chapter XI

Federal Building
450 Main Street
Hartford, Connecticut

December 26, 1974

CONFIRMATION
AND
MOTION TO TRANSFER

B e f o r e :

The Hon. Saul Seidman, Bankruptcy Judge

Lisa M. Beaudoin
Court Reporter
87 Meadow Street
Bristol, Connecticut

A 111

Appearances:

For the debtor in possession

GERALD BROWNSTEIN, ESQ.
900 Chapel Street
New Haven, CT

For the Creditors Committee - Co-counsel

CHEEVER TYLER, ESQ.
205 Church Street
New Haven, CT

For Chevron Chemical co. & Chevron Research Co.

HARVEY R. MILLER, ESQ.
767 Fifth Avenue
New York, New York

For Carl and Sarah Barnes

EVANS AND EVANS
261 Bradley Street
New Haven, CT
By: Robert Evans, Esq.

For First National City Bank as Indenture Trustee

SHERMAN & STEARLING
53 Wall Street
New York, NY
BY: DENNIS MURPHY, ESQ.

. . . The following is the transcript of the hearing on confirmation and motion to transfer under Chapter XI in the matter of Alrac Corporation, Debtor, which was held before the Honorable Saul Seidman, Bankruptcy Judge, in the Federal Building, 450 Main Street, Hartford, Connecticut, on Thrusday, December 26, 1974, at 10:00 o'clock P.M., at which time counsel were present as hereinbefore set forth . . .

MR. EVANS: May it please the Court, before we get started on the matters that are down for today, I'd like to clear my position with Mr. Brownstein with a pending foreclosure by the Hartford National Bank against our clients, the Barnes. I have filed my appearance in that foreclosure. I have also motioned for a stay on those foreclosure proceedings for sixty days. I have alleged in there that I understand that the plan called for a payment of one hundred thousand dollars. Mr. Brownstein, am I in error?

THE COURT: There is nothing in theplan as I recall.

MR. EVANS: It was a reserve he was talking about. Whatever he says, it is. I'd like to make a correct representation in the Superior Court. Mr. Brownstein, what do you say?

MR. BROWNSTEIN: What I have said, the one before --

MR. EVANS: December 6.

MR. BROWNSTEIN: I think I had said at that time, that I had reserved, out of the four hundred and fifty thousand dollars, a hundred thousand for partial payment towards the Hartford National Bank. When I said

that, i had received that. What I was talking about, was that in one of the hearings with Mr. Krick, how we arrived at the plan which had to begin with the amount of money which was available which was four hundred and fifty thousand dollars and had to be subtracted from the various sums that were due or various sums that could be paid that could be available to defray various charges here and in my mind, and according to my own computations, I have set up a reserve in that fashio. Now, we have Mr. Evans and -- we have not met at this particular sum. I have told him I had a reserve in mind at one time. We discussed the possibility of whether or not it could be improved. I looked at the figures again and I told them it just wasn't there and there was nothing I could do about that. That is what I was talking about. Of course, the plan does not speak to that issue because we are talking about a security creditor.

MR. EVANS: I don't think there is anything, your Honor, to decide, and I'm simply going to inform the Superior Court as to what Mr. Brownstein has said today. Thank you, your Honor.

THE COURT: May I ask if the Hartford National Bank has filed a claim in this proceeding?

MR. EVANS: I don't think so. We have the bond --

MR. BROWNSTEIN: I don't think they did. They are shown as a secured creditor. I don't know where they would have standing for that. They did have it represented --

THE COURT: If they filed a secured claim, if they chose to do it --

MR. BROWNSTEIN: I may know the answer in a moment, if your Honor pleases.

MR. EVANS: On the amendment that you have filed, you have --

THE COURT: Will you just wait for a second.

MR. EVANS: What are you looking for?

MR. BROWNSTEIN: To see whether they filed a claim. I'm checking to see if they filed.

THE COURT: Is the Hartford National Bank Represented today?

MR. EVANS: They did have someome here on the sixth of December.

MR. BROWNSTEIN: Yes, I have discussed the matter with that representative. I presume their position is that they have instituted a foreclosure proceeding as far as Dr. Barnes is concerned and Mrs. Barnes. I presume that they are looking to them for payment.

MR. EVANS: They sure are.

MR. BROWNSTEIN: In addition to that, they have not filed a proof of claim.

MR. EVANS: I didn't think they had.

THE COURT: My just -- to get the whole picture straight in my own mind, what seems to be implied, Mr. Brownstein; is that you will be negotiating or attempting to negotiate with the Hartford National Bank as to the terms of the payment of it's obligations and since the obligations are in default and they are secured, it is in effect, in a separate classification and really not effected by these proceedings so that you will presumably attempt to arrive at some schedule for the payment which might be more accelerated then the claims of the general creditors. It wouldn't give them any kind of priority except in terms of time because any claim they have if they waived their security, and filed, they still get a hundred percent.

MR. BROWNSTEIN: Of course, I think I have two options. One is to try to make my peace with Hartford National Bank at this point of time and arrange for something by way of the payment conveniently up to on hundred thousand dollars. The second option might very well be that we do not pay one hundred thousand dollars and reserve that for working capital toward

the development of a new product of Dr. Barnes. Dr. Barnes is a class two creditor. He will receive a hundred cents.

THE COURT: Plus some more stock.

MR. BROWNSTEIN: That's correct. He is entitled to any way by following in that category. I think those are two options. I think they are available.

THE COURT: No, I'm not inquiring. I was just trying to get the total picture for my own benefit.

MR. BROWNSTEIN: I think what I just stated is the position. There are two options available.

MR. EVANS: Mr. Brownstein gave me enough so I can make an accurate and correct representation in a foreclosure which will come up in a week from tomorrow.

THE COURT: Do you have any suggestions or preference as to the order of procedure?

MR. EVANS: I would assume, your Honor, that we would take up the chapter --

THE COURT: Application of transfer?

MR. EVANS: I think we have agreed last Friday, was that most of the comments that came in would be deemed to be applied for confirmation.

THE COURT: So there would be on flow of evidence. If that's understood, you can proceed.

MR. BROWNSTEIN: If your Honor pleases, in view

of the fact that we have these proceedings before you at the moment and they could take an inordinate amount of time in order to establish these things, I wonder whether or not my brother should not be directed to make an offer to prove this. It may very well be that we can stipulate on the good deal of things that are in controversy and reduce the areas of controversies. I think it would speed up the proceedings tremendously. Secondly, if your Honor pleases, we're working within a very tight framework, at the present time. We must get the confirmation by the 31st of the month. We can lose the Chevron deal. I have no idea how much time would be involved. I don't want to find myself in a trap. We have not spoken about these points in the proceedings. One thing after -- your Honor, I think it would be very helpful to the proceedings if Mr. Evans made an offier or proof to determine where if any, are there any controversy and limit ourselves to those areas.

MR. EVANS: I would object to the proceedings. I would like to make a statement to the effect. I personally came down to --

THE COURT: Could you stipulate to any fact?

MR. EVANS: I don't know what we can stipulate

to, your Honor.

THE COURT: Let's not spend the day --

MR. EVANS: I'd like to take a moment beforehand, I did come down from Vermont on the understanding that we would proceed.

THE COURT: You should have a lot of snow.

MR. EVANS: I'm sorry to leave my wife up there. On the other hand, I did come down on the understanding that we could not proceed tomorrow. I would not be able to proceed. I would not be available to proceed. I have made some commitments. I am prepared to be heard.

THE COURT: I think you have capable stand in.

MR. EVANS: We spoke interchangeable. On the other hand, the rule is once someone starts with a witness, that would be Carl Barnes, he must continue with the witness. I hope we can finish today.

THE COURT: In an event of an unforseen contingency, you would have to start all over again with a new attorney.

MR. EVANS: May it please the Court, the pressures of the case required incredible efforts by all counsel as it was Chevron's insistance on December 10.

In it's present posutre for fear of a lawsuit by Chevron, therefore the Chapter X: requested was made

by our firm. Dr. and Mrs. Barnes are here today. I believe that we have had considerable discussion at the last hearing. The S.E.C. letter is on file in which it objects to the million and a half shares of stock. S.E.C. reveals then that the plan probably can not be confirmed.

THE COURT: Let me ask you. You think if this matter were in Chapter X, the contract with Chevron would be out the window?

MR. EVANS: I think it then becomes a matter of investigation whether or not the requirements of a Delaware law by Chevron with respect to the Alrac Corporation that a trustee makes a more specific investigation insofar as it is concerned. Then the debtor and himself --

THE COURT: You think in an event of a X, the action of this Court was a nulity in approving this agreement by the debtor in this proceeding?

MR. EVANS: The action of the Court, your Court interum agreements that were entered into on the fourteenth.

THE COURT: In effect, you are saying the action of the Court in approving the entering into the contract would not be binding on a Chapter X trustee, is that what you are saying?

I'm asking you, is that your claim of law?

MR. EVANS: I believe that's a claim. We were not present.

THE COURT: Would you be good enough to give me some authorities?

MR. EVANS: Your Honor approved three interum --

MR. MILLER: There were two license agreements which is a very long one to go to ninetheen ninety which that is not an interum.

THE COURT: I'm interested in your claim of law. If there is a Chapter X, a Chapter X trustee can avoid the agreement with Chevron?

MR. EVANS: Yes, your Honor.

THE COURT: Well, what authorities do you have?

MR. EVANS: No specific citation. That gets back into the whole issue of whether or not these proceedings are filed in good faith.

THE COURT: No that's not the question at all. Whether the proceedings were filed in good faith or not, is up or down. On that basis, this is an action by the debtor and positions approved by this court. In positions approved by this Court, they become a final decision. There was no appeal. I wanted to know the authority you claim that a Chapter X trustee can avoid

that contract with Chevron?

MR. EVANS: If this never should have been --

THE COURT: Just give me authorities.

MR. EVANS: I do not have any specific citations.

THE COURT: Let's not argue equity. I'm looking for the legal effect of your claim.

MR. EVANS: Your Honor, the first thing I'd like to attend to before we take up the issue of the X, it is, I believe, an open count on the twentieth, a particular letter and amended computations in our office on the class one creditors. I notice in the Court files, amended computations. I notice we did not receive any. Mr. Krick did say he would make available to us a letter. I would like to see that first.

THE COURT: Do you have that letter?

MR. BROWNSTEIN: I received that this morning, if your Honor pleases. If I may be given a moment, I think this is it.

I'm handing that letter to my brother. Let the record show it.

THE COURT: Yes.

MR. BROWNSTEIN: While my brother is reading that, I'm also handing him a memorandum which is in

opposition which Chevron has given me. We already handed the copy of the same to the Court.

MR. EVANS: We have received this in the mail this morning. I had an opportunity to see it. I think it misses the essential element of our argument, but we have received it.

May I have a moment?

MR. BROWNSTEIN: Sure.

MR. EVANS: I would like this letter to be offered as an exhibit for the support our Chapter X. The covering letter was very misleading to the Class One creditors.

THE COURT: You have any objections to that?

MR. BROWNSTEIN: I don't see the relevancy of it. I saw what we were doing today --

THE COURT: That's a letter from the creditors committee?

MR. EVANS: This is the letter your Honor offered.

THE COURT: How does that affect the creditors?

MR. EVANS: Good faith.

THE COURT: The creditors committee or the debtor?

MR. EVANS: I think the creditor's are actively involved with negotiations of the debtor.

THE COURT: I'll determine the weight of it.

MR. EVANS: Barnes Exhibit A or one.

(Exhibit A introduced into evidence by Mr. Evans. A letter from Alrac to the creditors.)

MR. EVANS: Now the next thing, your Honor, I think is appropriate. I believe I have spoken with Mr. Brownstein about this particular matter. We are in agreement on this point. We did file an application for the Chapter X around the tenth of December, your Honor, acted upon it requiring that we serve copies before the 13th of December and also arrange for some sort of notice to stockholder's. Inview of the time limitations, and in view of the lack of any kind of stockholder's list, we put a notice in the Wall Street Journal and Wall Street Times and made personal notice to Mr. Brownstein, Mr. Tyler, and Mr. Krick and also made copies and service upon the S.E.C. We didn't serve one upon Mr. Miller who is sitting here with Chevron. We have no objections to Mr. Miller here. I did send certain letters to him.

THE COURT: Does anyone feel that that is inadequate?

MR. BROWNSTEIN: I'll take no position on that. I do want to set the record straight. No demand

either on me or the corporation for a list of the stockholders.

MR. EVANS: No question about that.

THE COURT: Well, I think, to my recollection, that is correct. The rules require such notice given as the Court feels is desirable. I would find that consistent with the Court's instructions or advice to you everybody was entitled to get notice one way or another.

MR. EVANS: Next item, I'd like to have introduced, I think the Court has a copy of that particular letter, was a letter requested December 17, 1974, to Gerald Brownstein. I think that's already in the Court files.

THE COURT: That's the letter with fifteen different items you wanted to produce at the hearing.

MR. EVANS: First of all, where do we stand with respect to the production of the items? Some of them I do have, some I do not.

THE COURT: Why not proceed with the hearing. I f there is something you feel is relevant which should be produced, than produce it. There was no application to the Court for any kind of order.

MR. BROWNSTEIN: And there was no issuance of a subpoena to reach it which would be an appropriate

form of relief.

THE COURT: Gentlemen, let's get on with it. Is there any other statement you wanted to make before you start.

MR. BROWNSTEIN: I'd like to just say that this apparently is the best copy that I have of the by-laws - of Section 10 of the by-laws, talking about the foreign requirements of this corporation for meetings of the Board of Directors. I'm showing this to my brother counsel. I'd like that marked.

THE COURT: What is the relevance of it at this time?

MR. BROWNSTEIN: Well, there might be some relevance at some point in time.

MR. EVANS: It might be best to put Dr. Barnes on the stand. I guess that would be the easiest way. Your Honor, putting Dr. Barnes on the Stand. It is our Contention on the motion of Chapter X, the decision by Judge Carter in the Arlens case is controlling. This is persuasive --

THE COURT: I don't know what you're talking about to be perfectly clear about it. I don't have the case in front of me.

MR. EVANS: I'm trying to indicate to your Honor what we're trying. We are trying to get their --

THE COURT: Why don't you paraphrase --

MR. EVANS: That is what I am trying to do. The situation in the Arlens case is controlling where there is a public corporation reorganized. We believe Dr. Barnes and his testimony will support that type of claim as well as a brief we have filed and our comments in Court that we believe that the letter from the S.E.C. talks about some of the other problems in the case. The particular thing they took is no position on the Chapter X. They did take position on various other matters. We can believe --

THE COURT: They made a lot of statements which were not relevant or supportable in terms of my own familiarity of what is going on. If I may say so, there were pretty wild statements and conclusions.

MR. EVANS: The S. E. C. -- note here that the S.E.C. regarded it's part of the file. It is the equivalent of a brief. If you wanted that.

THE COURT: I surely intend to pay attention to it as I indicated before. For example, they say that Alrac will be no longer be engaged in the active conduct of any trade or any form of business. Those are irresponsible statements.

They say that Chapter XI was designed to prevent trafficking in unregistered stocks. That really is pretty wild. There is no evidence of trafficking in unregistered stock here.

MR. EVANS: If any notice to the S.E.C. has a continuance of this case today, --

THE COURT: You haven't the slightest idea --

MR. EVANS: I don't know of any.

MR. BROWNSTEIN: Whether they had notice or not --

THE COURT: Notice was given at the hearing. All the Court is required to do is to continue a hearing by announcement in open court. You have been in touch with the S.E.C. Somebody has because they have a lot of information that didn't come from the court. Well, the thing that impresses me actually is the last sentence "We take no positions on the Barnes motion" and their advice to the Court was purely as a friend of the Court to be helpful in pointing out to the Court what our responsibility is. This is quite different from the position of the S.E.C. when it actively intervenes and files it's motion.

MR. EVANS: That is true.

Dr. Barnes.

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C A R L E. B A R N E S,

being called as a witness by the creditors, being first duly cautioned and sworn by the Court, was examined and testified on his oath as follows:

DIRECT EXAMINATION

BY MR. EVANS:

Q Would you give your full name to the reporter?

A Carl E. Barnes.

Q And where do you reside, Dr. Barnes?

A 482 Trinity Pass, New Caanan, Connecticut.

Q How old are you Dr. Barnes?

A I'm 66.

Q And where were you born?

A In Lewiston, Maine.

Q When was that?

A 1908, February 16.

Q And would you indicate to the Court the general nature of you education?

A Yes. I had a Bachelor's of Science from State's College.

Q When?

A 1930 and a Masters Degree and a Ph.d from Harvard University in 1935.

Q In what field?

A Chemistry.

Q What did you do after 1935?

A I worked as a chemist. You want all the jobs I held?

Q You indicate the nature of the background.

A The nature was research chemist and primarily in the field of organic chemistry and I went up through the range in various ranges to administrative positions.

Q I don't mean to cut you off in your testimony. Getting through it slowly in chronological order, I have you in 1935.

A You want me to give my first position as a research chemist with the Norton Company in Winstrom, Mass.

Q From when to when?

A I was there for four years, 1936 to 1940.

THE COURT: If I gave you my impression of Dr. Barnes' qualifications, would it save some time?

MR. EVANS: It might.

THE COURT: I assume Dr. Barnes was primarily responsible for the development of the nylon-4 process.

MR. EVANS: Nylon.

THE COURT: Nylon, just as in Dupont. I assume also Dr. Barnes, that you were primarily responsible in an interesting the people who loaned money to the corporation. They did on the basis of your reputation and integrity.

THE WITNESS: I think that's true. I'm directly responsible for some of it others acting on my behalf relied on my reputation.

THE COURT: It was my impression that you were the central figure of the development of the product and the financing of the corporation.

THE WITNESS: Except we had a board member who primarily was to get financing. I think he got it by integrity.

THE COURT: It was on your integrity and reputation?

THE WITNESS: That's right.

BY MR. EVANS:

Q I'd like to establish the story as to the issue of the involvement of the public. I think that's relevant.

THE COURT: As to his personal qualifications I'm convinced that he's qualified.

Q After the war, did you hold any position with the company?

A After the war? Well, I changed during the war. I was at Poleroid for two years.

Q Now we're up into the 1950's. At that time, had you done any work in the field of nylon or any synthetic type of work?

A Well, I did some work which historically lead to the discovery of nylon at G.A.F I didn't actually discover it there. I had changed jobs with a company in Providence, Rhode Island. It was then known as Arnold Hoffman and Company. I was a director of research and without going into the details in containing some ideas as that, I had at G.A.F. I did make the initial discovery of nylon-4 at Arnold Hoffman and Company.

Q That was approximately mid 50's?

A Yes.

Q Did you then apply for patent protection?

A A patent was issued on that in 1953.

Q To whom was that issued?

A Myself and two of my contemporaries.

Q Are those contemporaries still alive or actively involved?

A No actively.

Q How about the patents?

A Patents have been expired.

Q Are there other patents?

A Relating to nylon-4, there are some fifty odd patents issued to other people and other companies.

Q In the late 50's, did you continue with this company in Rhode Island?

A I was there for three years at that time it was purchased by Imperial Chemical Industries and had a reasearch place in England.

THE COURT: May I ask the basic patent of nylon-4 was in 1953?

THE WITNESS: It is a little. There are two basic patents. The first on in the most basic that was in 1953 and claimed for Simplicity claimed nylon-4.

THE COURT: And the second one?

THE WITNESS: The second on Alrac has now which claims a particular kind of nylon-4 which can be made into five fibers. Their first one is basic and more limited.

Q When was the year of the second patent?

A It was issued in 1973, March of 1973, the one that Alrac has.

Q That's a very valuable asset?

A I think it's extremely valuable.

Q In your opinion?

A That's right.

Q Now we're up into the late 50's and early 1960's after you left the Rhode Island Company, for whom did you work?

A Monsanto Marketing and Manufacturing, now called the 3M Company.

Q In what field were you there engaged?

A Well, I went there as Acting Director of the Central Research Lab. I was active in every field of research

3M was in the fiedl.

Q This is up until 1960. In any of these positions did you exercise corporate management?

A I managed a Central Research Lab. I managed as Corporate Vice President for the 3M Company for it's research.

Q Did you becomes involved with the day to day assets?

A I was a member of the Management Committee which was a small committee of Vice Presidents.

Q You didn't serve on the Board of Director's?

A No.

Q When did you leave 3M

A I left 3M in 1961.

Q And then where did you go?

A F.M.C. Corporation in New York.

Q Who or what is F.M.C.?

A Food, Machinery and Chemical is where these initials came from. They were a compact food machiery business. I was Vice-President of F.M.C. in charge of Chemical Research.

Q Did you continue working in the area of nylon-4?

A No.

Q When did you leave the F.M.C. Company?

A In 1963, later '63, I wasn't there long.

Q Where did you go from there?

A I retired. I did some consulting and in 1966 I

accepted a year's consulting job which was then known as Esso now Exxon Company on a special assignment to evaluate their research policies, try to make it more efficient. I was offered a job of continuing with them. I chose not to stay with them. I just quit in the year.

Q Now we're in 1967. Then what did you do?

A I started working on nylon-4 which I had already had in my system. I guess it was at home by myself.

Q And what did you do at home? What was the next step?

A Well, briefly stated, I started making nylon-4 in the lab to see if I could find ways of improving it's stabability which was the thing preventing it to be useful.

Q This was when again?

A 1967, part of 1967. I was pretty well along with the development.

Q You achieve results of it in 1968?

A Which led to the second basic.

Q We're now in 1968, we are now back in 1968.

A The application was made in 1968.

Q Who made the application?

A Well, Jesse Reingold who was the lawyer. He worked for two different law firms. He ended up at -- see, I forget the name of the first firm. He was with -- I Can't recall it but he ended up at Jacobs and Jacobs. I t was filed previously.

Q Jacobs and Jacobs are a creditor as you see in these proceedings?

A Yes.

Q You went to Mr. Reingold in 1968. Did he indicate that he was a patent lawyer? Is that his field of expertise?

A Patent attorney, yes.

Q Would you tell us in your own words, to the best of your recollection, what happened?

A I took my invention to him, a description of it and told him I thought it was patentable, since I field a good many patent applications. I think I could tell it was a patentable invention. We wrote up a patent, a specific patent.

Q Did you pay him money to file the patent application?

A Not immediately but I did later.

Q You made an arrangement to employ him?

A Yes, that's right.

Q Was this filed in just your name?

A There was no one else involved at that time. We didn't have a company then.

Q That's my next question. What then happened after you filed the application?

A Then we formed a small private corporation under the name of Alrac.

Q Who is we?

A Well, I asked Harvey Wolfe to help me form such a company.

Q Let's back up again. Let's get the quote "we" first?

A We were Harvey Wolfe, Herb Oscar Anderson and myself. This was early in '68.

Q How did you know Herb Oscar Anderson?

A He was a neightbor.

Q And he is a radio parent?

A Was then.

Q And Mr. Harvey Wolfe, is he the same person who is the head of Alrac Corporation?

A Yes.

Q Now, under the first circumstance, how did you become in contact with Mr. Wolfe?

A Well, it was an accident. I was a witness in a Court case that 3M had with one of it's companies. And a lawyer who was a California lawyer was using space in Mr. Wofe's office and I met Mr. Wolfe under those circumstances.

Q Who was the lawyer then for the formation of the corporation?

A Mr. Wolfe.

Q And it was to be Alrac Corporation in a New York Corporation?

A Looked after the business and --

Q This was incorporated under the laws of the State of New York?

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A Right.

Q Again, this was in 1968?

A 1968.

Q And therefore the principle people who are the stockholders in that corporation then were the three of you?

A That's right.

Q Was the next step -- first of all, what was your particular capacity with that new corporation?

A Well, I was developing, in charge of developing the product. I guess I was President of the corporation at that time but it mostly was a title becuase I spent my time making the new product and we made some arrangement with Suns Research Institute, in the spring to get it down to Suns Research to see if it could be run in a successful fiber during the year. I hired one or two technicians to help me.

Q Then, what was the next step? We are now in the year 1969, am I correct?

A We're still in '68.

Q 1968?

A Yes.

Q And do you have -- then what happened in the beginning of 1969 and the development of the corporation?

A Well, we didn't have very much money and as I said we hired a coupld of technicians. It wasn't long when we ran out of money in an effort to raise money, I went amount other

places to David Grace.

Q David Grace, is he present in the Court?

A Yes he is.

Q Is he now a director of the corporation of Alrac Corporation?

A Not now. He was at one time.

Q Continue.

A I'll lead into that as a way of getting money. We consider taking the money publicly.

Q This is when, in 1969?

A Late '68. And Mr. Grace suggested, instead of going public merge with Radiation Research Corporation.

Q Let's wait for a second. Radiation Research Company this name appears on the name of the title of Alrac Corporation? It did business as Alrac formerly doing business as Radiation Research Corporation?

A The first one, Alrac Company which was a New York Company.

Q Who and what is Radiation Research Company?

A It's Alrac Corporation. Now you're getting ahead of things.

Q If I am, what did Radiation Company -- you wen to talk to Mr. Grace. What did he tell you about this?

A It was a publicly held company which had been in existence fifteen years. I'm not just sure of that.

Q This is a publicly held corporation?

A Publicly held corporation.

Q Was it traded or listed any place?

A It was traded over the counter.

Q How many stockholders?

A Fifteen hundred stockholders at that time.

Q By the way, are these roughly the same present stockholders as thenumber of stockholders that --

A Essentially the same stockholders.

Q Now then, in 1969, what happened?

A Well, on December 31, 1968, we merge the privately held New York Corporation in the Radiation Corporation that was the last day of 1968. We started in 1969 as a Radiation Reserach Corporation with Alrac activities integrated into the other activities.

Q Essentially, what was the arrangement of you, Mr. Wolfe, and Mr. Anderson at that time?

A When I founded thepatent, I owned, of course, one hundred. I gave Mr. Wolfe fifty percent of my interest for handling the legal aspects. Herb Oscar Anderson was later given back about fifty percent of the money he put into the corporation which happened at two or three different stages.

Q Now Radiation Research Corporation, is that a Delaware Corporation?

A Yes, it is now.

Q What was it then, if you remember?

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A I'm not sure of this. It was a Florida Corporation. It was an intermediate stag.

Q How did Radiation -- maybe I'm going ahead. How did Radiation Research Corporation get to Alrac corporation? Did it change it's name? Did it reincorporate?

A No, about two years later, after we had spun off all the other activities from Radiation Research, which was in the field of radiation, chemistry of this particular nature, we felt the names at the Stockholder's Meeting two years after the merger, that Radiation should be changed to Alrac Corporation.

Q Was Radiation Research a Delaware Corporation?

A It was already a Delaware Corporation at the time of merger or then on.

THE COURT: It isn't very clear. When did Radiation Corporation become a Delaware Corporation?

THE WITNESS: At the merger. It was December 31, of 1968. That's right, it went through an intermediate stage and ended up a Delaware Corporation.

Q Did this corporation have a set of by-laws?

A Yes, it did.

Q Are these principally the by-laws?

A Until the point of my resignation had been changed one at the meeting. They were amended to give what amounted to equal authority between the chairman of the board and myself

who was president. Otherwise there were no changes.

Q Do you have a copy of the by-laws in your possession?

A Yes, not here but I think you have a copy.

Q I have an extract which I would like to show you which tells you about section 10 of the by-laws and ask you if you can identify that?

A Yes, this is the section that was applicable at the time.

Q What does this section relate to?

A The quorum, what consists the quorum.

Q Of the Board of Director's?

A Yes.

MR. EVANS: I'd like to offer this particular document into evidence.

MR. BROWNSTEIN: Very frankly, I think it's irrelevant. Im waiting for the question of Chapter X having Dr. Barnes testify, it's very interesting but it still doesn't get to the heart of the matter. I don't see where this by-law --

THE COURT: What do you think the relevance of this by-law is.

MR. EVANS: It will save a lot of productions of a lot of the records concerning the by-laws.

THE COURT: That's not really relevant. Where, as to your motion on the transfer, is this relevant?

MR. EVANS: The motion to transfer is if two proceedings are improper and improperly filed in Chapter XI. A motion to transfer to Chapter X can be granted by the Court. One of our positions is if the Chapter XI was improperly filed.

THE COURT: Why didn't you raise that objection when it first came in?

MR. EVANS: Your Honor, we weren't of counsel. It took us two or three months to become counsel and be familiar with these proceedings.

THE COURT: Dr. Barnes didn't raise it. He was represented. He was represented by counsel at all times.

MR. EVANS: And apparently by the time based upon what I have read of the transcript and some of the accusations, I think it's appropriate what happened to my father and me to investigate so we could frame a motion. We don't have that information readily available. If Mr. Brownstein wants to object --

THE COURT: You're claiming now that the corporation never authorized the filing of the Chapter XI?

MR. EVANS: That's correct. We filed that.

THE COURT: Didn't Dr. Barnes start this whole party with an involuntary?

MR. EVANS: What Dr. Barnes did is something that we will get to and he will testify to.

THE COURT: I'll ask you a question. Did he start an involuntary?

MR. EVANS: I'd rather let Dr. Barnes answer that.

THE COURT: Let's not play games.

MR. EVANS: I'm not playing games.

THE COURT: Did he or did he not start the involuntary?

THE WITNESS: Not intentionally.

THE COURT: Now, Mr. Evans, you're an attorney. You're an officer of the Court. I asked you a question. Can you give me an answer? Did he or did he not?

MR. EVANS: May I ask that?

THE COURT: That's only requires a yes or no.

MR. EVANS: I wasn't counsel to Dr. Barnes.

THE COURT: I will state he did.

MR. EVANS: I know he did.

THE COURT: Why didn't you answer my question? The only question I asked you was whether he started the involuntary. That can be answered yes or no.

MR. EVANS: On the basis of the Court record the pleading that was filed, by Dr. Barnes, is an involuntary petition.

THE COURT: I've heard enough. And the next question -- well, I shouldn't get involved here as I indicated the record shows that Dr. Barnes started the involuntary. He was the one instituting jurisdiction of this Court.

MR. EVANS: There is no question about that.

THE COURT: In response to that, the corporation filed a Chapter XI.

MR. EVANS: That is correct.

THE COURT: Now, you're claiming their filing of a Chapter XI was inappropriate under the rules -- there were by - laws?

MR. EVANS: That's correct, your Honor.

THE COURT: Well, and your claim now is that section 10 of the by-laws controls the --

MR. EVANS: Quorum requirements.

THE COURT: Quorum requirements.

MR. EVANS: For the Board of Directors.

THE COURT: Well, all right. What do you claim as to that.

MR. BROWNSTEIN: First of all, they're barred by latches. If this issue was raised, it should have been raised at the beginning of the proceed-

ing. When present counsel came into the case they should have known the state of the record, at that time, to permit us to get this far. We are talking about conversion from 11 to 10. Many hours of time went into the proceedings. To get into this particular issue now is inappropriate. I think there has been too much reliance.

THE COURT: I'm inclined -- we're concerned with two matters. Now, an application to transfer to Chapter X. I don't think it is a proper basis for arguing that. The case should be transferred to a Chapter X. The second question on confirmation of the plan which has been accepted by creditors. I don't see it's relevance to that either. In effect, asking that the matter -- there's something inconsistent about your position. You're asking that the Court dismiss unless they file a X and then you say their not equipped or properly set up to do that because they can't conform with quorum requirements or something in that effect. I'm inclined to think this is not a timely --

MR. EVANS: Your Honor, I'd like to speak on the issue of timeliness. We were brought onto this matter on an emergency basis in September. It took us almost three months to find out exactly what was involved. We raised the issue when we filed an initial issue on the matters of the objections to

the plan for arrangement as far as it being timely, I can not -- brother counsel knew we raised this particular objection two months ago --

MR. MILLER: I'd like to poitn out, Your Honor, that at the hearing in Bridgeport this precise issue was raised. If you look at the answer by Daniel Lewis, there was a firm defence on this precise issue. Your Honor overruled on it with affirmation. The minutes of the hearing were produced. For Mr. Evans to raise it at this point of the proceeding is outrageous. This was ruled on and no appeal was taken from the order, Your Honor.

THE COURT: Do you have something that supports this?

MR. BROWNSTEIN: I have the answer of Carl Barnes and Sarah Barnes in opposition to affirm and adopt an agreement which is signed by Daniel Lewis. I imagined it must have been filed in September.

THE COURT: Do you have a copy of the transcript?

MR. MILLER: I don't have the transcript with me, your Honor.

THE COURT: Well, I suppose at some time something in the records ought to contain some information about this. Now, I'm not going to permit you to pursue this until I have an opportunity to check

back to the proceedings at the first hearing. I don't have all my records organized here and if what Mr. Miller is saying is true, then I would think you're stuck at this point to raise the claim again. The Court has unquestionable subject matter jurisdiction so that it's not something that goes to the basic jurisdiction of the Court. What you're arguing is as to the corporation proceedings that brought the matter in here. Apparently we are beyond that after the first hearing.

MR. EVANS: There is an affidavit in opposition to affirm and adopt the contract which is signed by Dr. Barnes sworn to December 6, 1974, by Mr. Daniel B. Lewis. It states exactly what --

THE COURT: As you are talking, as I said, until I see firm notes on it and it's my feeling that we are beyond that point as a result of that, but as I said until I had a chance to check my records --

MR. EVANS: I didn't know we were beyond on that point at all. My understanding as to what happened on the sixth is that he objected to three particular contracts.

THE COURT: You heard what Mr. Miller said. You weren't there. My recollection is not clear as to what happened. Mr. Miller might like to refresh it a little bit further.

MR. EVANS: Mr. Brownstein, do you have the by-laws of the corporation here. This is one of the things I asked for.

MR. BROWNSTEIN: I don't believe I do.

MR. EVANS: I'd like to ask that they be introduced.

THE COURT: What does that have to do with this?

MR. EVANS: If they would let in this particular section, I don't need anything else here. It's going to come up to the issue of confirmation. I took it up --

THE COURT: Under what objection to confirmation --

MR. EVANS: Under our objections, it's set forth on our complaints.

THE COURT: Which of the objections?

MR. EVANS: The good faith. It's numbered. I didn't designate.

MR. BROWNSTEIN: We would get to that thing. I know I'm trying.

MR. EVANS: Number 9, your Honor. It says the entire plan is invalid. The debtor failed to -- this is paragraph 9 of the complaints to object to confirmation indicating the entire plan is invalid for the reason that the debtor failed to obtain proper approval of the initial action of this matter --

a duly called and held meeting of it's Board of Director's.

MR. BROWNSTEIN: Once again, if Your Honor pleases, I think my brother here is estopped from raising the issues as a result of the first hearing.

THE COURT: That's true, if I agreed with you. I decided to reserve an opinion on that until I have checked it. I asked you to go beyond this question into the next matter you want to cover.

BY MR. EVANS:

Q All right, we're in 1969, Dr. Barnes, and we are talking about a corporation known as Radiation Research Corporation which is now the combination of the Alrac Company and Radiation Research, and as you indicated, Radiation Research is an allied business which subsequently, sold off or disposed of?

A That's correct.

Q When Alrac became a party into the Radiation Research Corporation, were you elected either an officer or a director?

A Director and President.

Q Do you remember who the other directors of the corporations were then?

A I don't remember if I remember them at all. Now, David Grace was a member.

MR. BROWNSTEIN: Member of what?

A Radiation Research, the Board of Directors. Max

Max Morkendel was another one. Barney somebody, I can't remember his last name.

Q What was David Grace's principle business at that time?

MR. MILLER: Your Honor, I'm going to object to this line of questioning. Mr. Evans, what is the relevancy of all of these testimonies?

MR. EVANS: I'm trying, your Honor -- this is the first time we have had a chance to talk in this manner.

THE COURT: This is an opportunity to talk? This is a hearing to establish what objections there are to confirmation or why the matter should be converted.

MR. EVANS: I'm trying to lay down a foundation. I don't want it to come out that we didn't make the proper foundations at this time.

THE COURT: I will sustain the objection to the particular question. I don't see the relevancy of Mr. Grace. I don't see anything.

BY MR. EVANS:

Q Were there any instruments of debts outstanding in this corporation at this time which are the same instruments that --

MR. BROWNSTEIN: I object to this line of questioning. He should not lead him.

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THE COURT: It looks as tough we are going to go the long road.

MR. EVANS: I'm just trying to get to the question of it's relevancy.

THE COURT: You want to get back to the north country tomorrow.

MR. EVANS: I expect I made this plan on good faith to come down here today.

THE COURT: I'll saythis, Mr. Evans, if this hearing will have to continue tomorrow because of the pressure of time --

MR. EVANS: Your Honor, the pressure of time has been constantly extended by Chevron to meeting their own satisfaction. When we represented a lone individual, we're under the gun.

THE COURT: No, you'll have every opportunity. It's not unfair to continue.

MR. EVANS: Mr. Miller. He could not be here on the 2~th. He made the statement in open Court.

THE COURT: Now, cool it, Mr. Evans. Just understand that I have nine Hundred cases that are in my files. Everyday matters come up which require resolutions in the ordinary course of events except for the time pressure of this matter drawing over a period of a year before you've finished the hearing in order to keep my sanity. I have to get

a picture in my mind that I can retain so as an accomodation to me, I'm going to keep at this thing.

MR. EVANS: I'd like to reserve my rights of appeal. Is this an unreasonable request?

THE COURT: You can always appeal.

MR. EVANS: I came a long way. I made plans. I came back on the assumption that we would go forward.

THE COURT: You indicated earlier you wanted to get through with this witness because you're the only one -- it looks to me that you are doing your best not to complete the questioning.

MR. EVANS: These are objections to the form of the questioning. If my brother keeps objecting to the form of questioning, that's going to delay the matter even further.

THE COURT: Please ask a question, Mr. Evans.

BY MR. EVANS:

Q Now, I can ask Dr. Barnes, in 1969, were there any instruments, that in this Radiation Research Company, outstanding, that are outstanding today?

A Yes, that's the debentures that were offered.

Q You say the debentures. What are the debentures? Is this the class three claims?

A Yes.

Q Now, they existed in this corporation prior to your coming aboard?

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A No, after the merger. A debenture of over three million dollars was made to raise money.

Q Excuse me, a second. At the time of the merger?

A I don't think there were any debts outstanding at that time of the merger.

Q In 1969, when the merger took place, there were stockholders, a Board of Directors formed all creditors and nothing else?

A That's correct, as far as I know.

Q As far as you know?

A Yes.

Q And from 1969 until sometime in June of 1974 you were the president and chief executive of this corporation?

A I wasn't chief executive. There was another man who was chief executive.

Q Passanino?

A Herbert.

Q He is no longer with the corporation ow?

A No, sir.

Q Now, in 1969, did the corporation commense further reasearch on nylon-4?

A It continued.

Q What did it do?

A After the money from the sale of the debentures was raised, it built a plant.

Q Where did it build a pilot plant?

A It moved it's corporate headquarters then from a location at 575 Mope Street, which was inadequate.

Q Where?

A Stamford to 2469 Hull Street, Stamford, where a new building was rented of adequate size to see the pilot plant.

Q Then it needed some capital in 1969? Am I correct? You indicated that earlier.

A No, that money from the debenture issue took us through 1970.

Q Let me ask the question, if you didn't follow the question. We are still at the corporation in 1969 with stockholders, directors, officers, and creditors, and I have indicated to you, at some point in time, money had to be obtained --

MR. MILLER: If Mr. Evans is going to testify, I'd hope he would take the stand.

THE COURT: Well, maybe it would save some time.

A I guess I'm not clear as to your question.

Q In 1969, after you came in the corporation, did you being and continue it's research on nylon-4, am I correct?

A That's correct.

Q Did it in sometime in 1969, need to obtain additional sources of capital?

A Yes.

THE COURT: He already testified as to three million dollars of class three debentures.

MR. EVANS: It was not clear in my mind.

THE COURT: They didn't need any more money until 1970. Let's get to the point. Let's get to 1971.

Q In these three million dollars in debentures. These are the same creditor's in the class three creditors?

A That's correct.

Q Will you indicate how, when, why and who did what in order to accomplish this?

THE COURT: He testified why and when. He hasn't testified how.

MR. EVANS: That is what I would like to hear.

THE COURT: All right.

A The debenture offering was from Sterling,Grace and Company.

Q Who is Sterling, Grace and company?

A They are a financial house in New York.

Q What do you mean a financial house?

A Brokerage house and investment company.

THE COURT: I have an affidavit of Dr. Grace which sort of tells a good deal of his background. I think I'm familiar with it. This is an affidavit in opposition to the motion to transfer. I believe the witness testified earlier that Mr. Grace was

continuing with the company that was handling financial matters.

MR. EVANS: I don't see the --

THE COURT: Is it correct that Mr. Grace was involved in disposing of these debentures to the public?

MR. EVANS: I was to establish whether or not these people who received these particular things were sophisticated investors which might militate putting the matter, if Your Honor question in favor of the debtor. I'm trying to find out what kind of public this was that got this debenture.

THE COURT: That's over the dam. They got debentures.

MR. EVANS: We're trying to find out if their major corporation, whether or not people who are familiar were being offered to them.

THE COURT: Are these the people that are represented by Sherman and Stearling.

MR. BROWNSTEIN: They are, your Honor, this was a registered offer.

THE COURT: You're trying to protect against their opposing this motion.

MR. EVANS: I'm trying to find out whether or not there are possibilities as to whether or not

they can oppose it. I'm trying to see whether or not these are people -- the fact that they are creditors doesn't make a difference if this should be a Chapter X.

THE COURT: That's true. I'm trying to determine what you want me to understand about these class three debenture holders.

MR. EVANS: I'm trying to indicate this is not a minor composition of debts.

THE COURT: That's an argument. You can argue it from the facts that are on the table that there are "x" number of class one's, so many class two's, and so many class three's. This witness is not the one to establish that.

MR. EVANS: I'm trying to find out how the money was raised. What type of public turned out. I think this is relevant. Your Honor may not believe it is relevant and your Honor may not believe we have any interest in protecting the class three party.

THE COURT: You're trying to establish a picture?

MR. EVANS: That's correct.

THE COURT: Tell me what you're trying. These

people were sophisticated or not sophisticated?

MR. EVANS: I'm trying --

THE COURT: What is your claim?

MR. EVANS: I believe they are unsophisticated.

THE COURT: All right. Do you quarrel with him about that?

MR. BROWNSTEIN: Of course I do.

THE COURT: He quarrels as to whether they are sophisticated or unsophisticated.

MR. EVANS: Would he accept --

THE COURT: That was four years ago.

MR. EVANS: Now their rights are going to be altered in any major corporation reorganization.

THE COURT: Are you prepared to advise the Court as to whether the people became educated in the last three years?

MR. EVANS: I don't know.

THE COURT: Does this witness know?

MR. EVANS: I don't know.

THE COURT: You're not in left field. You're over the fence on this in my judgment. I do not understand what you're aiming at.

MR. EVANS: I'm trying to get through what is in existence with this Alrac Corporation.

THE COURT: All I can say is this. If you have a corporation which has thirty thousand dollars in assets and six million in debt and Chevron is prepared to put in eight million, why should we go into competitive bidding. Why are there no objections to this thing. I just want to ask you one question. If this is worth two hundred to three hundred million, where are the people who are interested in it?

MR. EVANS: This is the claim --

THE COURT: This man was director of Research with Exxon. Why doesn't he get Exxon.

MR. EVANS: Why various oil companies do not bid, is this what your questioning?

THE COURT: We're roaming around the mulberry bush here. I'd like to get down to the gut issue here. I don't feel that I'm really getting anything of value out of this examination. I mean the history of this thing is fine but when you get into the sophistication of a group that almost unanimously -- they accepted this plan.

BY MR. EVANS:

Q Dr. Barnes, why hasn't the group accepted the plan to the best of your knowledge?

MR. BROWNSTEIN: That's objected to, your Honor.

THE COURT: That's sustained.

MR. BROWNSTEIN: It just seems to me that we have various issues that are raised on the question of conversion that we don't get testimony relevant to that.

THE COURT: I agree. The background, of course, is always helpful and relevant.

MR. BROWNSTEIN: It's going to take longer than two days. We're going to have to do this. I'm prepared to stay here.

THE COURT: Let's not have any more comments about it. You asked a question on how sophisticated this --

MR. EVANS: That was objected to. That question can be withdrawn.

BY MR. EVANS:

Q Who arranged for the issuance of the debentures?

A Sterling and Grace.

Q Registered for it?

A That's correct.

Q The First National City bank are the trustee?

A That's correct.

Q Maybe I will go along with Mr. Brownstein's suggestions on one thing. How many debenture holders are there now? These are some of things that are in the affidavit.

MR. BROWNSTEIN: Thirteen subordinate convertible debenture holders according to the schedule.

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MR. EVANS: Now, just a moment. I have imparted to that information. Is that to be part of a stipulation? Let's see if we can stipulate to a few more things. The Corporation, Alrac is a public company, is that correct?

MR. BROWNSTEIN: No question.

THE COURT: During recess, put your heads together and make that announcement when Court convenes.

MR. EVANS: Well, I think that some of these things are pretty easy. He has sixteen authorized shares of one dollar. Excuse me, six million.

MR. BROWNSTEIN: Six million.

MR. EVANS: There are a million, forty-three thousand shares issued and outstanding.

MR. BROWNSTEIN: That's correct.

MR. EVANS: There are a million options -- there are numerous shares which have been reserved for issuance upon the exercise of obligations of debt instruments.

MR. BROWNSTEIN: I don't know if they have been reserved. There are warrant rights outstanding and they could be converted. I don't know if I could say if they were reserved.

MR. EVANS: That I'll accept from Mr. Brownstein as being correct. Twenty percent are two hundred and ninety thousand. I think approximately twenty percent.

I haven't done the mathematics but I think that's close enough. The convertible total approximately is two million, two fifteen thousand dollars as of August 1, 1974, held by the hundred and thirty-nine shareholders.

MR. BROWNSTEIN: Yes, that's correct.

MR. EVANS: I hope when we get into the further history about the notes --

MR. BROWNSTEIN: You can do that now.

MR. EVANS: I want to get into it on how it got into and what category -- that is the class three creditors. I think we can stipulate and agree to that.

MR. BROWNSTEIN: The one we just stipulated to.

BY MR. EVANS:

Q Now, this three million dollars was then raised?

A Yes.

Q And this was done on a registered offering?

A That's correct.

Q And that took you up through when as you indicated?

A Through 1970 and through part of 1971.

MR. EVANS: By the way, Mr. Brownstein, can we agree there is approximately sixteen hundred shareholders of Alrac Corporation.

MR. BROWNSTEIN: On the paper there are different indications, some places say sixteen hundred, and other eighteen hundred. I don't know.

BY MR. EVANS:

Q Which other number?

A I could explain the difference.

MR. EVANS: The number is nothing to be determined in the event of --

MR. BROWNSTEIN: Between sixteen and eighteen hundred stockholders.

THE COURT: We'll recess now. Do you want to reconvene earlier than two o'clock?

MR. BROWNSTEIN: We would like to take a luncheon break now and come back at 1:30.

THE COURT: 1:30, fine.

(Recessed at 12:35 o'clock p.m.)

(Resumed at 1:50 o'clock p.m.)

THE COURT: It is our practice to adjourn court at 4:00 o'clock. If we are close to resolution, we may stay on later if you want but I'd like to aim toward that.

MR. EVANS: It is possible as a result of the recess, the suggestions made about the examination may be considerably shorter.

THE COURT: Are you going to take over now,

Mr. Evans?

MR. EVANS: No.

THE COURT: If you took over, I can assure we would be through by 4:00 o'clock. Someone want to make a point of order about that motion.

MR. EVANS: I think Mr. Brownstein and I can agree that the proofs of claims filed by Carl Barnes and Sally Barnes correctly states their interest in the case for whatever valid interest we have agreed as a stockholder for two hundred and nine thousand shares. We also agree the plan before the Court which was accepted by creditors last Friday, seven hundred and fifty thousand shares of stock will be issued to class two and class three creditors which we would claim is in addition to a hundred percent payment.

THE COURT: Well --

MR. BROWNSTEIN: The plan speaks for itself.

THE COURT: That's the way I read it.

MR. EVANS: In addition --

THE COURT: The class two and class three are the stock in addition of the face amount of the debentures, is that correct?

MR. BROWNSTEIN: That's correct, your Honor.

THE COURT: As I recall, a statement was made that whatever percent was to be adopted for payment or

excessive payment was intended as compensation for accrued interest that these respective claimants would have been entitled to, if they were made whole, a hundred percent of their interest.

MR. EVANS: They all bargained for this.

THE COURT: The interest compensates for that. That's another way of saying it, isn't it?

MR. BROWNSTEIN: No, the payment of principal would have been paid for, for example, in 1984. In this way, what has not been paid will have been paid under the terms of the plan.

THE COURT: What is the other?

MR. BROWNSTEIN: There is an element of risk which was not here contemplated by virtue of the Chevron deal. Chevron can withdraw at the end of one, three, and six years. This was an added inducement and moreover that was exacted as a condition by the creditor's committee.

THE COURT: What you are saying is that that was something that the debtor didn't want but had to accept.

MR. BROWNSTEIN: Precisely. Had we avaoided that, we would have avoided all the problems relative to the stock. These proceedings hopefully, could have been concluded. The Creditor's Committee insisted upon vigourously --

MR. EVANS: The stock is issued without consideration as set forth we'll stand on that particular issue insofar as the testimony.

THE COURT: The fact is that the plan gives shares to each of the classes in addition to payment in full of their obligations.

MR. EVANS: That's the way the plan speaks. The plan speaks for itself. I don't know the Delaware Corporation's laws. I have section 261 here to present to your Honor and also 303 in his brief. I think we have -- I just assume if it's already on file 271, you can file 303.

MR. BROWNSTEIN: Well, 303 is the exemption.

MR. EVANS: I would like the basic statement. It was not attached to our moving papers. I'd like to offer Exhibit B, sales lease or exchange of assets conditions procedures.

THE COURT: Exhibit B is section 271 of the Delaware Statute laws.

(Exhibit B; Section 271 of the Delaware Statutes.)

THE COURT: Could I ask the debtor apropose of the section 271 of the Delaware Statutes in your

judgment, does the incidence of filing and being under the Bankruptcy Act have any effect on any of the requirements of 271?

MR. BROWNSTEIN: I think we superseded it, if your Honor pleases. That our position as a matter of law, Mr. Tyler who is much more familiar with and acquainted with Delaware Corporation laws and perhaps --

MR. TYLER: Well, your Honor, I think in the brief that Mr. Brownstein filed on behalf of the debtor, you will --

THE COURT: Today?

MR. TYLER: Yes, sir.

THE COURT: You will note that at the very last of that brief there is a reference to section 303 of the Delaware Corporation code which, on it's face, makes it clear that in a proceeding of this kind under Federal Statutes, the debtor may deal with it's assets in one thing or another without consent of it's shareholders and in addition to that, the debtor takes the view that since the record makes it plain that the debtor is insolvent and there is no equity for the stockholder, the seventh circuit clearly disposed -- there hasn't been any direct evidence of insolvency although a lot of statements have been made about everybody agreeing.

MR. TYLER: Well, --

THE COURT: You're assuming there will be evidence of insolvency.

MR. TYLER: We do intend to provide evidence. The schedules which make it at least apparent, that some substantial questions of that nature exists. It's our contention that the stockholders have nothing to do with these proceedings.

MR. BROWNSTEIN: I believe that Mr. Evans believe that the debtor was insolvent.

THE COURT: I think I recall that at some point --

MR. BROWNSTEIN: Of course, it is the fact.

THE COURT: With respect to counsel, the statement that counsel made, this is not evidence.

MR. BROWNSTEIN: Yes, your Honor.

MR. EVANS: Counsel has housekeeping things. We filed a letter that Carl Barnes sent to shareholders.

THE COURT: That's part of your brief.

MR. EVANS: I know it's part of the brief. It's not necessarily as evidence. The same thing with that proxy statement, are they accurately prepared and can they be admitted without going into the foundations for Dr. Barnes testifying?

MR. BROWNSTEIN: I'll concede that.

MR. EVANS: Dr. Barnes, there are two groups

of notes in class two. Mr. Brownstein and I will stipulate as to the amount involved. You would stipulate it came about to be issued to the earliest class going to the next class?

A As I said, we began to run out of money in 1971. Mr. Ferguson, the board member, appointed to take care of the financing of the company suggested that we issue eight and a half percent convertible five year notes and raise money that way, I believe that's the question you are asking?

Q How much of those were issued and to whom?

A Five hundred and eighty thousand dollars worth, if I remember correctly.

Q Is this what you called the convertible notes at eight and a half percent?

A Right.

Q They were issued to approximately -- well that and another note approximately fifty-five people?

A That's an estimate by counting all the names. See, some of the names appear several times.

Q How did you get to those particular people?

A There are two categories, eight and a half percent notes were handled all by Mr. Ferguson except in a few cases.

Q Who is this Mr. Ferguson?

A A member of the board of directors of Alrac Corporation.

Q He arranged for these placements?

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A All except two.

Q What is the total amount of those notes?

A Four hundred and eighty.

Q You show six hundred and eighty-two?

A That's with accrued interest, I believe.

MR. EVANS: Is that a fair estimate?

MR. BROWNSTEIN: The figure that we showed included the accrued interest.

Q They were issued when, in 1972?

A Yes.

Q Then there was a second class of short term notes?

A After those were issued the Board actually had to place a limit on how many of those can be issued. Then we sought finances during the period of attempted private placement of short term notes during nine months for one or two cases.

THE COURT: When were these placed?

THE WITNESS: Late'72 or early '73 or January of '74.

THE COURT: What was the amount of the short term note?

THE WITNESS: I think without the accrued interest, they were about a million and one.

THE COURT: They were all placed or authorized?

THE WITNESS: They were all placed.

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THE COURT: With interest?

THE WITNESS: They varied. Whatever the principal was at the time and the one or two special cases, they were issued at prime plus I believe, one percent, some were issued at prime.

BY MR. EVANS:

Q Were these issued to people who were closely connected with the affairs of the company and knowledgeable?

A Yes.

Q Did you issue them in any kind of prospective?

A No.

Q Another housekeeping item. I think we can reasonably stipulate that David Whitman is a member of the Creditor's Committee, a Director of the Corporation. I'm not sure what the legal effect is. That's just a statement of fact.

THE COURT: His affidavit so states.

MR. EVANS: I think that's enough on that point.

THE COURT: May I ask one further thing. These affidavits, do you propose to put the affiants on --

MR. BROWNSTEIN: Yes, your Honor.

THE COURT: All right, I see.

MR. EVANS: Your Honor, I just wanted to get into one other question before I get down to the real issue, the good faith of Alrac in the whole plan both on the ten and on the confirmation.

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BY MR. EVANS:

Q Dr. Barnes, if this present goes through, assuming it gets confirmed, assuming that the motion for Chapter X assuming if appeals are taken or not and it is finally decided on this state of the record that everything is recorded, what then is left to Alrac Corporation, in your opinion?

A Well, in my opinion, not very much. It has some rights. There are, of course, the rights of the royalties that come in provided Chevron does not exercise the options to estate.

Q Those get paid to the creditors?

A Yes, if they are large enough, to the stockholders. I think that business opportunities are out for the corporation.

Q That's correct.

A And the grant backs of certain rights to Alrac Corporation, cover a period of approximately six years as I believe, and certain limited and special areas that finish products derive from which is the product covered by the patents, these areas that are granted back primarily in the known woven field and, in any case, in this field, where low price is essential to develop a marketable product, there is no opportunity to get low price lists within the period of time of the grant back. This will tend to honor Chevron with every cent. Alrac is in a position to negotiate for purchase of reinstating the prices from Chevron if they continue a volume up to the point where the low price is feasible. They won't

get at a low price. I don't see how a viable commerical product is granted.

Q You read the letter from S.E.C.?

A Yes.

Q They make the claims that they wonder if there is a viable business left.

THE COURT: May I tell you this. In my judgment, the S.E.C. evaluation of the facts has a negative value as far as the Court.

MR. EVANS: I'm asking the witness. He has the letter.

THE COURT: If he concurs with them, it will have the same effect on my thinking.

MR. EVANS: I think he's testifying as to what things --

THE COURT: That's all right. I respect Dr. Barnes's indicating in certain numerous areas. The economic ability of the corporation might be a question. I'll accept that.

MR. EVANS: Obviously, we would make the claim as to theobjection of the confirmation.

THE COURT: Yes, I understand.

MR. EVANS: We would also make a claim both as to the motion.

THE COURT: You're not claiming that the corporation will stop it's corporate activities

or it's business activites?

MR. EVANS: Possibly engaging in business, it is physically remote and speculative.

THE COURT: The plan does not anticipate that they will not continue in business.

MR. EVANS: To the extent, the plan may not anticipate, if the plan in effect --

THE COURT: In effect, even though the plan may provide they will continue to do research in related fields, the chances of surviving are minimal. Is that what you're saying?

MR. EVANS: That's correct.

THE COURT: That is Dr. Barnes judgment.

MR. EVANS: That's right. That's correct.

THE COURT: He didn't --

MR. EVANS: We did cover a lot. We saved a lot of time. At least I would like to think so.

THE COURT: Dr. Barnes, in your judgment, is Alrac restricted to just these two areas that you refer to?

THE WITNESS: No, not by the documents, they are restricted by the money available. You can't do much research development and market studies on twenty thousand dollars a month.

THE COURT: You say the capital will be

insufficient. If the capital were greater, that they could make it?

THE WITNESS: I think there would be a chance into one hundred thousand a month. That's what we spent in developing the nylon-4.

THE COURT: Do you have an opinion as of scientific capacity of the personnel, are they qualified engineers?

THE WITNESS: It's greatly reduced.

THE COURT: I know you would know who is there. Would their work be professional adequate?

THE WITNESS: To develop a new product?

THE COURT: In related fiedls? In other words, is there professional involvements in the programs?

THE WITNESS: It's probably doubtful whether there is enough capacity. There are one or two people who could do it.

THE COURT: Volume of people or qualifications of the business?

THE WITNESS: Volume of qualified people. There are not so many qualified people -- technicians couldn't do it.

THE COURT: You say there are one or two who are qualified?

THE WITNESS: If they remain with the company.

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BY MR. EVANS:

Q All of the figures, Dr. Barnes, with respect to the balance, is Alrac included on that proposed material that was going to shareholders? On April 30 the assets were three hundred and fifty-six thousand dollars and the liabilities and the deferred items were five million --

MR. BROWNSTEIN: Those were book values. I'll stipulate accordingly.

THE COURT: What were the liabilities, five million and five hundred, seventy thousand dollars?

MR. EVANS: Liability, the assets were three hundred, fifty-six thousand dollars.

Just a short statement, your Honor, we pretty well covered everything. One other point I would like to make on the question of 271 of the Delaware Statues, versus 303 of the Delaware as to providing the exemption, we would contend that 303 is a viable extention. Obviously the question then, is the issue as to whether or not this whole situation is a question of good faith on the part of Alrac insofar as the Chevron transactions is really being the matter to pursue now with Dr. Barnes.

THE COURT: Are you saying regardless of what the Delaware Corporation law says, you claim the whole transaction was not offered in good faith?

MR. EVANS: What we would in essence say, is this. Dr. Barnes will have to testify. They made a deal with Chevron. Chevron wants to make an agreement and prepare a proxy for various reasons. Nothing happened. Whether or not the filing of anything by Dr. Barnes forces the issue or not. Whether they filed the wrong motion or not. Whether the action of a Chapter XI was properly authorized. Then we get down to the final one, whether all of that is in good fiath. Our claim is under 271. Mr. Borwnstein claim is under 303. That absent of showing in bad faith is perfectly permissible plan and reorganization of transfers between Chevron that the whole thing was not in good faith. When they couldn't get the proper --

THE COURT: Is that the test -- whether this is good faith between Alrac and Chevron?

MR. EVANS: Good faith in Alrac and Chevron, Alrac and the Court, Alrac and the creditors, Alrac and the Barnes.

THE COURT: It would appear to me Chevron may be rather generous. They drove a hard --

MR. EVANS: Mr. Miller roughly gave me the same arguments. I don't think that's the issue. With Chevron --

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THE COURT: What I'm trying to grasp at are the things that you claim constitute bad faith. As I recall, did Dr. Barnes sign the original agreement with Chevron?

MR. EVANS: Why don't we go through the transactions. He did, by the way, in answer to your question, that's another story.

BY MR. EVANS:

Q Now we are up to '71 and '72 and a company is gloundering in 1973?

A Yes.

Q In essence that the company is unable with all of this money, to come into actually find a procedure for making the product, is that correct?

A Well, we tried to raise, to build the plant by way of privilege placement.

Q In 1973, you were president of the corporation. You were a member of the board of directors?

A Yes.

Q You were at that time chief executive?

A Yes.

Q What was Mr. Harvey Wofe's status at the time?

A He was a member of the board and treasurer and assistant secretary.

Q Did you and he decide on most of the decisions at that time?

A Yes.

Q What did the board then decide as a means to be done in the late fall of 1973?

A Well, I think that it was adopted. If we took any specific action on it, it was a consense of opinion. We have better looked to have the company acquired by some major corporation instead of hoping for a private placement by which we can remain.

Q How was this going to be done?

A By approaching companies who should be interested.

Q Who were they? Was Cyanimid and Chevron, were they two?

MR. MILLER: Objection. Is Mr. Evans going to continue to lead?

THE COURT: The wintess said no.

A Chevron was one of the ones they had been to, one or two years previous. We were looking for private placements and money and we told them no. Cyamamid was not one. There were others interested in it and we agreed then that we should let it be known that we might change our mind on our willingness to be acquired.

Q To go a little out of context, how did you happen to sign the agreement with Chevron? You did sign it, didn't you?

THE COURT: Before you get to that, I'd like

to know, you don't remember the others, whom you solicited?

THE WINTESS: We didn't solicite anything.

THE COURT: When you decided to reconsider your position, how did you let Chevron know about it or didn't you?

THE WITNESS: Yes, we did.

THE COURT: Did you approach any others at the same time?

THE WITNESS: We weren't in the process of it. Perhaps we could. We had retained Mr. Fisk as consultant to approach companies.

THE COURT: Did you have any agreement with Mr. Fisk:

THE WITNESS: Yes, we did.

THE COURT: What type of agreement?

THE WITNESS: A financer's agreement.

THE COURT: What was the agreement?

THE WITNESS: I believe a five, four, three, two, one agreement, if you know what I mean by that.

THE COURT: What are the cut-off?

THE WITNESS: Financer's fee.

THE COURT: Five percent of what?

THE WITNESS: It was related to millions of dollars in the transactions.

THE COURT: You don't know where the steps were?

THE WITNESS: Harvey Wolfe worked that out. I left that mostly to him and I don't remember that vividly. I think it was five percent at the time.

THE COURT: It's not the point I was anticipating, it was another point. Mr. Wolfe could testify to that if it's necessary. Now did this Mr. Fisk bring different people to you?

THE WITNESS: He wrote down a list of companies where he had some contact that I would like to approach.

THE COURT: Do you know if he did?

THE WITNESS: He approached several.

THE COURT: How many?

THE WITNESS: Well, I guess as many as twenty five or so on his list. Some of those he approached by calling a contact there -- a friend or again in most cases there were quite far afield from the activites of Alrac. An example is S&H Green Stamps, they were not interested in going into the fiber business. I suggested Chevron. They showed express interest in acquiring us. Under the circumstances, he went to chevron about a year ago. It was the end of

December.

THE COURT: He had this list of twenty-five and in one way or another he was to solicit?

THE WITNESS: He was to look and see if they were interested in Alrac as we would have gotten in private. If they would be interested in becoming an investor in Alrac.

THE COURT: Did he get permission for getting to get the money into the company?

THE WITNESS: Investors in Alrac? That's correct. I think the first one he approached from the standpoint of acquiring Alrac was Chevron. Chevron got interested right away so we started to talk with them.

THE COURT: And then no one else was approached in connection with this?

THE WITNESS: No, as I said, this Chevron interest developed so rapidly, we entered into negotiations with them.

BY MR. EVANS:

Q Now, I guess maybe I can ask my question again. How did it come about on the issue of -- let me backtrack. How did you come about to sign with the Chevron agreement in April of 1974? Describe the circumstances of that?

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A There were two agreements, technically an assitance agreement and the other was the closing agreement. That was the letter of April 24. You want me to discuss that one?

THE COURT: I don't think the details of that are necessary.

MR. EVANS: I think the details of the signing of it are relevant.

THE COURT: How he happened to sign it.

THE WITNESS: Yes, I understand by February, late February of 1974, I had become unenthusiastic shall I say about the Chevron proposal. I didn't think enough business opportunities were being left in the company and I took positions that we ought to either approve the deal or not sign the initial technical assistance agreement and this is where I guess the first rough period between me and Alrac board of directors. I suggested that someone else sign that agreement if it was the sense of the Board to sign that technical assistance agreement and work toward the conclusion of the Chevron deal. I was a dissenting vote. I suggested that someone else sign that deal. I was pursued by three legal member of the board.

and/or one of them was the secretary, Mr. Hessness, of counsel Hale and Dorr. It would be proper for me to sign as a chief of executives even though I was not in favor of this. The same situation applied at the signing of the closing agreement. I suggested that I felt so strongly about it, I would resign rather than sign. I was prevailed upon by the same lawyers to not restrain. They said that I might do so only by directions of the Board and thereby give no indication. I was to sign only by instructions of the Board as it's Chief executive. As a result of the lawyers, I guess I could leave it by saying, twisting my arm. I signed it with the clear statement at the Boar meeting proceedings.

THE COURT: You weren't in favor of it as an administrative act?

THE WITNESS: I should do it.

MR. EVANS: Your Honor, I ased in my letter of December 17, that the various minutes of the board meeting from the --

THE COURT: Well, are these necessary as long as the witness has testified that he opposed it?

MR. EVANS: They would support his viewpoint. I'm particularly interested in something roughly from January.

THE COURT: Let me say this, Mr. Evans, whether or not it was a good deal, it apparently was an act of the Board which Dr. Barnes did not approve. Apparently, he felt that it was a proper corporation act. Even though he didn't approve it he could, in good conscience, sign the agreement.

MR. EVANS: He was not our client. I think it is relevant.

THE COURT: You can't reconstruct what happened to make it appear as what you would like to have happened. He testified to what has happened, it seems to me.

MR. EVANS: The minutes were taken and I would like them produced from January through July.

THE COURT: What will they tend to show?

MR. EVANS: They will establish whetheror not this whole --

THE COURT: Whether it was a good deal?

MR. EVANS: Good faith. I determine whether it it was a good deal. The good faith of Alrac, they were advised to certain things.

THE COURT: What you're saying is that Dr. Barnes advised his colleagues, it was not a good deal, nevertheless, they agreed to it and he accepted it as a corporate act and signed the papers. Now, what good fiath are you talking about here.

MR. EVANS: The good faith of Alrac in entering into the transaction, your Honor, on this good faith, one I solicitated interest. You have to look at the standpoint as to how the deal was made and start into something with Chevron and they are advised by Dr. Barnes certain things.

THE COURT: I'm not sure If I understand your definition of good faith. It may not be a good deal but --

MR. EVANS: Good faith in accordance with the Statute law of this chapter of this state of incorporation which you are in which is Delaware. I'd like to establish from the nimutes of the corporations the fact that this was intended to go to the stockholders. It was intended to be done with the proper approval and it never was and sooner or later that the Alrac Corporation make a decision to do certain things.

THE COURT: Well, do I understand you to say --

MR. EVANS: Good faith isn't whether it is a good deal wherever--

THE COURT: You claim that disagreement even though from a greater point of view was the act of the corporation nevertheless because the Delaware law required that it be put to the stockholders when they decided to file this Chapter XI after it appeared that the stockholders were dragging their feet --

MR. EVANS: Stockholder's never got the proxy.

THE COURT: You're claiming that is bad faith. I understand your claim. The physical facts are there. They propose there was a proposal to give it to the stockholders and they never did and then there was a filing. Of course, Dr. Barnes, participated in this by his involuntary.

MR. EVANS: I'm well aware of that.

THE COURT: You're not going to blame it on other lawyers, now. I think I know what the facts are, Mr. Evans. I understand what your claim is. The fact that they chose to offer the plan in a Chapter X rather than going through the procedures that they had started on which would acquire submission of the stockholders.

MR. EVANS: When you superimpose upon that, the shares of stock, the whole picture --

THE COURT: Yes, I understand.

MR. EVANS: That's obviously the only thing that I have asked that the minutes of that period of time be given to me.

THE COURT: I'm not sure they would be a --

MR. EVANS: I have asked them to produce it.

THE COURT: Have you had a chance to examine them. If they're not being produced -- you do not claim there was no agreement.

MR. EVANS: Obviously, I don't. Whatever Dr. Barnes said he was there, he would like to see the minutes. What was said and what was not said. Apparently he saw some minutes raised unanimously when --

THE COURT: I think the stockholder is entitled to see the minutes. If they are available they should be made available.

MR. MILLER: That is the hearing that was held at the end of August. I have the minutes of the special meeting of April 24, 1974, which has a certification of Harold Hessness which states that

the closing agreement, Dr. Barnes which was unanimously approved by Dr. Barnes. I have the April 24 minutes.

MR. EVANS: Apparently, Dr. Barnes claims that the minutes are not accurate. I wasn't there.

THE COURT: Whether the secretary was doing his job properly --

MR. MILLER: Mr. Hessness is from a Boston law firm of Hale and Dorr.

MR. EVANS: His qualifications are not in issue. Are these the only minutes that you have? I would like to get all of them.

THE COURT: That's not what you said. You said the minutes did not reflect what was going on.

MR. EVANS: This is one issue of what Dr. Barnes told me.

THE COURT: Was Dr. Barnes at that meeting.

MR. EVANS: Is this meeting part of the record, the minutes of the 24th?

THE COURT: I don't know.

MR. EVANS: I'd like to get the rest of the minutes from that period of time from January 5o August 14, 1974, on the issue of good faith and we'll offer this one.

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THE COURT: That may be marked. I think that counsel should have an opportunity to look at the minutes for whatever they are worth.

THE WITNESS: May I have an opportunity to comment on that.

THE COURT: No question is pending.

(Exhibit C: Alrac Corporation special meeting of directors on April 24, 1974.)

THE COURT: I think it's clear that Dr. Barnes was opposed.

MR. EVANS: Are there other minutes available. I have some -- I just want to put them into the record, your Honor, I think they belong there. I'm not trying to belabor this at any length.

THE COURT: You can do it without trying.

MR. BROWNSTEIN: It strikes me that the introduction of them, unless they are relevant --

THE COURT: Mr. Evans wanted to examine them.

MR. EVANS: I would like to have seen them.

THE COURT: I think this client as a stockholder is entitled to examine the corporated records.

MR. BROWNSTEIN: I imagine so.

MR. EVANS: Do you have them?

MR. BROWNSTEIN: I don't have them.

MR. EVANS: I'm not wishing to delay, your Honor.

THE COURT: You could --

MR. EVANS: I think that is under the second here in Connecticut which is relevant principal under the proper thing. The debtor does have jurisdiction. I think some inferences might be worth --

THE COURT: The jury will consider it.

MR. EVANS: I don't see a corporation which is here in the reorganization of the proceedings.

THE COURT: Well, they are always doing it if the board directed you just filed a letter and there was no official action on it, nothing --

MR. EVANS: I think the request was approprate.

THE COURT: I think it was approprate.

MR. EVANS: We are not going to get it.

THE COURT: If I may say so, Mr. Evans, it was much easier to make a nontoll telephone call to Mr. Brownstein and find out if you were going to proceed. Then, if he wasn't going to, you could haven taken an appropriate action. I'm a believe in being a communicator.

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BY MR. EVANS:

Q Now, Dr. Barnes, you believe there is an error. Have you looked at this meeting?

A No, I have never seen them.

Q Take a chance to look at them. Dr. Barnes, I've shown you a copy of what appears to be the minutes of the meeting of the Alrac Corporation of April 24 which authorizes the various agreements with Chevron. You have indicated to me, and also to His Honor that they do not fairly reflect what occurred at that meeting. Would you indicate what occurred?

THE COURT: He just indicated it wasn't unanimous.

THE WITNESS: I was a dissenting vote. I was going to sign the agreement only because I was directed to by the board. It would not infer my endorsing them as I said unanimously was crossed off the copy that I signed.

THE COURT: The copy of what?

THE WITNESS: The agreement with Chevron.

THE COURT: You didn't sign the minutes?

THE WITNESS: The board meeting was held just prior. We crossed out the words unanimous when I signed.

THE COURT: You so testified.

A 194

Q Now, you were on the Board during January, February and March of 1974, and I correct?

A Yes.

Q Did you at any time carry out the negotiations with Chevron during those time periods?

A Well, I started them with Harvey Wolfe and Jesse Reingold, the patent attorney being with me.

Q What then happened?

A About March, a difference of opinion rose. I felt that I could negotiate just a little bit better. A split occured and a meeting of the board was called. I think in March -- March 22 by two directors of the corporation instead of by me as it always had been done before and at that point, other people took over the negotiations with Chevron. I sat in on some of the meetings. I think I approved the grant back situation. I had little to do with negotiations from the end of March on.

Q I believe, your Honor, that the copy of the Alrac Corporation Agreement with Chevron Research Company and Chevron Chemical Company of April 24, 1974, is in the record.

MR. BROWNSTEIN: If I remember you attached to the -- I think Dr. Barnes' affidavit on the conversation on the Chapter X is attached.

MR. EVANS: I don't think we did. I just want to make sure that the basic agreement of April 24 is in the record. I have an extra copy that I could

put in.

THE COURT: Well, you have here attached to your first document, that you filed a copy of the letter of August to the stockholders by Dr. Barnes with some comments by Dr. Barnes.

MR. EVANS: And then proxy material?

THE COURT: A copy of the notice to the stockholders of a special meeting in lieu of the annual meeting. I don't think the agreement is actually here.

(Exhibit D: Alrac Corporations agreement with Chevron Research Company and Chevron Chemical Company)

MR. BROWNSTEIN: I have no objection and it is going into an exhibit.

THE COURT: Well, I've seen this. I think this was offered to the Court at the first meeting in Bridgeport.

MR. BROWNSTEIN: It may have been. It may as well go in as a full exhibit.

Q Up until this particular situation with the Chevron transaction, you had always been in the -- involved as a President and chief executive over either investors and third parties? It was your responsibility?

A That's right.

Q The whole situation was taken away from you?

A On this March 22 meeting.

Q And who took it away from you?

A The board. Harvey Wolfe and Herb Oscar Anderson called a meeting.

Q Where was this meeting held?

A In New York at the offices of Rudar and Finn.

Q Was there some meeting that took place at the airport?

A Not an official meeting.

Q What was that meeting all about?

A The first draft of the so called technical assistance agreement.

Q Did you and -- you were not informed of this particular meeting?

A Yes, I knew he was going to get the draft there.

Q Did you ask why you weren't going?

A No, well --

MR. MILLER: Objection, the material is not in the record.

THE COURT: You were present at the March 22 meeting?

THE WITNESS: Yes.

THE COURT: You say at that time, the matter was taken away from you?

THE WITNESS: That' correct, yes.

THE COURT: What do you mean by that? That somebody else would negotiate?

THE WITNESS: Yes, Harvey Wolfe had been given the authority to negotiate?

THE COURT: You were still an officer and director at that time?

THE WITNESS: Yes.

BY MR. EVANS:

Q You now have these agreements that were signed in April of 1974, what then happened?

A After signing the agreements?

Q Now, you have signed them, you had explained what happened and why you have signed it or at least your version. What then happened in May of '74? Were there other meetings of the board of directors?

A Yes, there were meetings of the board.

Q Did you attend those meetings?

A Until I resigned, I did.

Q When did you resign?

A I believe in June.

Q You resigned as what?

A As director and chief executive.

Q You remember the date?

A I don't remember exactly, June 25 or around there. I don't remember the exact date. It was at the meeting and I can't remember the exact date of that meeting.

Q Did you resign as President?

A No, I didn't resign as president.

THE COURT: You resigned as Director?

THE WITNESS: As director and chief executive.

BY MR. EVANS:

Q What is your present state?

A I'm a stockholder.

Q How did you cease to be President?

A I was terminated.

Q What was the cause?

A Not supporting the Chevron Agreement.

Q Did you receive a written letter?

A Not for the termination, but I received one that stated that I had been terminated for cause.

Q And when was the last time you did work for the company?

A I think up to -- you mean as an employee?

Q In any capacity?

A I have been working for the company ever since.

Q I'm not interested in your values.

A I was terminated as an employee after two weeks.

Q That's for the Court ro find.

THE COURT: When did you say that?

THE WITNESS: My resignation was at that meeting. Since then I have worked about two weeks, for when I received the termination as President, I believe, I worked two weeks into July.

Q You were aware of the proxy material that was supposed to go out to shareholders?

A Yes.

Q It was your belief that it go out to shareholders?

A Yes, I thought it was and I believe it should have.

Q Do you remember in your capacity as an officer of the corporation had you ever received a written letter from Hale and Dorr that the transaction required shareholder's approval?

A No, I only remember him making that statement during the negotiations.

Q What statement?

A That it required the shareholder's approval.

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Q That was in the proposed proxy material that is on file?

A I'm referring also to the negotiations with Chevron. It was Mr. Hessner's opinion and so stated. That's why the proxy material was prepared.

Q And this occured and your resignation again occured in June?

A Yes, I left the company about the middle of July.

THE COURT: May I interrupt? Is there any disput as to the fact that since filing under the Bankruptcy Act, the matter would have to be presented to the shareholders?

MR. MILLER: Yes, there is a dispute. If you're referring to the closing, (Reading) "Although there is some question as to whether or not the transactions contemplated by the agreements, assignment, and form of note required the approval of Alrac's stockholders, Alrac has concluded that it should submit the matter to its stockholders in order to eliminate any question regarding the due authorizations of such transactions." This is the document that is in question.

THE COURT: If I could take this out of context, what would be the question?

MR. MILLER: Well, the question was that the

stockholders approval was necessary.

THE COURT: For what?

MR. MILLER: For this transaction in the closing agreement.

THE COURT: But I'm wondering with the uncertainty as to whether or not -- would you know that?

MR. TYLER: Your Honor, the relevant provisions of the Delaware Code are contained in Exhibit 271 of the Delaware Corporation Statute which I think the rule provides where the corporation disposes substantially, the majority of stockholders need to approve. This is necessary as to substantially all the assets being involved in the transactions. It's very difficult to view that. It did in the Chevron agreement. I wasn't there. I'm assuming that.

THE COURT: The question of sale of all or substantially all of their assets --

MR. TYLER: That point is not conceded.

THE COURT: All right, O.K.

MR. EVANS: Your Honor, we did try to move ahead pretty rapidly. I have no further question to ask of this witness at this time.

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THE COURT: You're announcing you won't be here tomorrow?

MR. EVANS: I have no further questions of this witness at this time.

THE COURT: If I understand, you felt you had to be here during the examination of Dr. Barnes.

MR. EVANS: Well, I don't know if that can be concluded this afternoon. I'm not going to reserve that particular thing.

THE COURT: If you're looking for the Court's affirmation, I agree you made good progress.

(Recessed at 2:55 O'clock p.m.)

(Resumed at 3:05 o'clock p.m.)

CROSS EXAMINATION

BY MR. BROWNSTEIN:

Q Dr. Barnes, you testified earlier that in 1969, at the time of the transaction, the merger transaction, with Radiation Research Company, debentures were sold and a considerable sum of money was then raised, is that correct?

A That's correct, sometime after the merger.

Q As a result, the company then had funds to go forward and develop it's products?

A That's correct.

Q Basically, it was engaged in development of nylon-4, is that accurate?

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A That's accurate.

Q Three million dollars was raised?

A Yes.

Q And that sum of money was avilable for the company, and it was able to use this money through some time in 1971, is that so?

A 2.7 million was available, the rest went to brokers fees.

Q There was 2.7 million dollars which was then raised and available for the corporation, is that right?

A That's right. It was not all used on nylon-4.

Q Was it used basically for nylon-4?

A Much of it was, at that time, we operated in Long Island which was the old Radiation Operation which was supported out of this money for a period of about a year.

Q I believe you testified you spun off the various components?

A We had cintered metal.

Q Now, subsequently, when the company began to run low on funds in 1971, there became a need for additional funds to operate, is that not so?

A That's correct. I'm not sure of the timing. It may have been early '72.

Q There did become a time in 1970 where this company needed additional funds?

A Correct.

Q And I believe you said Mr. Ferguson who was the member of you board, proposed that there be eight and a half percent convertible five year notes issued?

A That's right.

Q As a result, five hundred and twenty thousand dollars worth of notes were sold?

A Right.

Q Is that right?

A Right.

Q That was a registered security at that time?

A No, it was not registered.

Q Just the debentures were?

A Just the debentures.

Q And the notes that were then offered, were they the same notes bearing the same amounts of interest in that case?

A Yes, those were eight and a half convertible notes.

Q You said that Mr. Ferguson had arranged all but two of these?

A I think that's Alrac and they have been all but two. They were virtually all of them.

Q Who took care of the sales on those which Mr. Ferguson was unable to sell?

A I did.

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Q Subsequently, there became a further need for money?

A Correct.

Q It was swallowing up hundreds of dollars worth of money in the development of this product, was it not so?

A Yes.

Q When the subsequent money became in need, various short term notes were being offered, is that right?

A That's right.

Q On the short term notes, were you the one who negotiated these various sums?

A No, it was mostly done by Mr. Ferguson or his friend in the brokerage business or Mr. Thomas.

Q Now, isn't it a fact, however, that you did negotiate some of the short term notes?

A Some of them thoward the end, yes.

Q And when you say to the very end, give us an approximate period of time, if you would?

A In late 1973, I talked to two or three principal lenders directly.

Q How much money would you say that you were responsible for raising on short term notes?

A It's very difficult for me to say. Some of my efforts went through other people who did the active negotiating for them and I was not directly involved in it.

Q Were you directly involved in the sale of these notes?

A Yes, some of them.

Q Those you were actively involved in, would you give us an approximate figure on how much money?

A I would guess two hundred thousand dollars worth of them.

Q The short term notes for different interest rates, did they not bear?

A Yes, they did.

Q And they also had different maturity dates?

A Yes, that's correct.

Q And I believe you testified as long as nine months and some ran as short as one month? Why was there such a variation of the notes?

A Well, we tried to make them all nine months. We found some people for more than six months in our financial situation we accepted six month notes. In some instances to some people and it would have to be three months toward the very end when we had extreme difficulty in meeting the payroll.

Q So whatever you could get your hands on. I believe it was also your testimony, these short term notes were issued basically to people who were close to the corporation and who were knowledgeable investors, was that not so?

A I think it's so. I don't know exactly how you would define knowledgeable but they knew the corporation, most of them.

A 207

Q Now on the transactio with Chevron, isn't it a fact when the company saw that it was once again running out of money and there was no other way of raising money, that it became very interested in trying to arrange for a merger or acquisition with some other company?

A I'm not sure I understand the question. At a certain point of time we started to talk to Chevron. Yes, I think I said I told Mr. Fisk and I told a number of people that I thought the time had come that we should consider acquisition. I saw no other source of money come in.

Q Actually, all the sources of money that seemed to be available had been tapped out in short term notes?

A Well, you might conclude that. I'm not sure that is a direct conclusion. We always hoped of private placements around the corner and there were other companies that looked as though they might come in. We were getting down to the point that we had to do something.

Q And there was great urgency in doing something, was there not?

A Yes, I must say we had that urgency for two years.

Q There were a number of crises?

A Yes.

Q As a matter of fact, in January of 1974, was there a time when the landlord evicted the company from the premises?

A It was true, January and January the year before we had that situation month by month.

Q You were -- the crisis really started for quite some period of time?

A I believe that's right.

Q And there didn't appear in any of these short negotiations that culminated Chevron that a stable source of money was going to become available for the purpose of continued operation?

A It appeared that there were several opportunities but this was one that materialized.

THE COURT: Well, the question meant to me short of some making arrangements some other company that you were going to, didn't have any stable sources.

Q Did the company look into the possibility of working out with G.T. and E.?

A Yes, it did.

Q Did you get any contract with G. T. and E.?

A No, we didn't.

Q And did the company also look into working out an arrangement with Dart Industries?

A Yes.

THE COURT: What's the name?

A Dart.

Q And did the company get with Dart Industries?

A No.

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Q Did it also check into possibilities of working out arrangements with Monsanto?

A Well, I don't know if I can answer that quite directly. We did have great inquiries to and from the company and Monsanto was one of the dozen companies who looked at our product. We never discussed anything final.

Q Did it show any interest in the company?

THE COURT: How did they evidence an interest?

THE WITNESS: They requested samples.

THE COURT: How did they happen to find out about this? Was that a result of your efforts?

THE WITNESS: We had a lot of publicity in the trade journals and many people requested samples. They had requested a sample.

Q How about with mexicana, had they evidenced an interest?

A I don't know.

Q Some of the Mexican Companies?

A A company, Technical Industries, showed an interest that was cut short. We had the board vote to take this Chevron deal. I was still actively negotiating with them.

Q Weren't there some cotton brokers investing in this company?

A We must have had fifty companies looking into the possibility of it. They were one of many, yes, they were not

very real, shall I say.

Q Was there any interest evidenced by uranium representatives?

A Not to my knowledge.

Q No recollection?

A Since there has been uranium --

Q During the time you were about the company?

A There was a David Wakeman, he had somebody in uranium and that might be referring to that. That never materialized into anything real.

Q Accordingly, did they show any interest in this company?

A They took a look at it. They thought the time pressures we imposed on them were not ample.

Q The time pressures dictated by the need of the company for cash?

A The company had been operating under a pressure.

Q It was a cash flow problem in each instance?

A That's correct.

Q I have only mentioned about eight or nine different possibilities. You say there may be upwards of fifty?

A I wouldn't say serious negotiations, just taking a look.

A 211

Q Well, the time came when it was necessary to do more than take a look at the company, the company was running out of cash. Once again, wasn't that true?

A That's a different context you're speaking about the authenticity of the company toward making some deal. Yes, we were very anxious to make a deal with somebody.

Q Then, as a result, John Fisk was retained and your suggestions to him to check out Chevron showed a real interest in the company by Chevron?

A That's right. Very rapidly.

Q As a result of the interest that was generated, did you and Mr. Wolfe and Mr. Reingold go out to San Francisco and spend some time in negotiations with Chevron between April 1st and April 4th of this year?

A Yes, I did. I went to San Francisco with them.

Q Probably in April?

A March or April. Yes, I would say in April, April is right.

Q I think the dates are correct. I'm not trying to trap you into anything. Could we agree that the dates are in April?

A I think I was out there more than once. I think I was out there three times. Once in February, or early

A 212

March.

Q As a result of these early meeting with representatives of Chevron, the various agreements, technical and the closing agreements, developed out of these various meetings?

A Well, the technical assistance agreements developed very early. I think the first draft came in February.

Q I thought it qualified as a result of the various trips out there in San Francisco?

A I don't know what you're asking me really. We had many meetings in New York.

THE COURT: What He's asking is whether these agreements came from your negotiations together with Mr. Wolfe's or other on behalf of the company?

THE WINTESS: The technical assistance agreement resulted from my participation and talks, yes.

Q And this was subsequently -- withdrawn.

Q As a result of the contracts that were ultimately executed by you as the principle officer of Alrac and the Chevron representatives, certain things were to be conveyed to Chevron and certain things were to be granted back to Alrac, is that not so?

A Yes, out of several different positions that was the plan.

Q Mr. Evans questioned you earlier as to what would be left if the Alrac and Chevron deals were consumated and the Chapter XI would go forward. What would be left to Alrac following that? I believe your testimony is that there would be the right to Chevron royalties, is that accurate?

A That's part of what I said.

Q The rights to receive royalties would be part of it?

A Part of it.

Q The royalties payments which are set forth in the Chevron transactions are all miminum royalty payments of five hundred thousand dollars each, isn't that so?

A Well, there is also a two percent sales figure.

Q That five hundred thousand dollars represents minimum royalty payments but they could be increased by a percentage of sales?

A If the sales are high enough, that's correct.

Q Now, in addition to that, I believe you testified earlier that the grant backs would cover a period of six years, isn't that what your testimony was?

A The last I knew about it was six years. It may have changed.

Q If I told you that the grant backs provision actually

goes to 1984, --

A That I knew nothing about.

Q If I tell you that is the fact, would that change your mind with respect to whether or not within that period of time it would be assumed the resin could be produced and sold to Alrac from Chevron at a low price?

A What are the grant backs that go to that? All the grant backs -- do some grant backs go or some products areas?

Q Just one moment. The finished nylon-4 product number two which means the mold and shape products?

A Just the mold and the shape products.

Q Let me read you right from the contract the thing I'm referring to. (Reading) The finished nylon-4 product number two which shall mean mold and shape products as saleable nonfoldered ended product made nylon-4 and the following specific saleable and product made from nylon-4, namely ribbons not exceeding maximum width and computer impressions on structures?

A Those are the only products that is to go to 1984?

Q I believe that's so?

THE COURT: I'm getting a little bit in over

my head. Do I understand this examination what you're trying to bring out under the agreement there is a potential return to the corporation in excess of the half million dollars a year written into the contract?

MR. BROWNSTEIN: There is a minimum royalty. It's a percentage of sales in addtion to that, if your Honor pleases, Chevron granted back the right to Alrac to engage in other activities such as the nonwoven fiber field.

THE COURT: I see that's the use of the nylon-4 in other areas.

MR. BROWNSTEIN: In other areas, that's right.

THE COURT: Does that nonwoven granting until 1984 also --

MR. BROWNSTEIN: That goes to 1980.

Q Dr. Barnes?

A I don't think I can change my conclusions much. I have to point out a technical fact here thatmolded objects seem to be very difficult to make from this residue. We have succeeded in making very small ones. We made two or three attempts to make these commercial size. I doubt if it can

be made to molded products.

Q I think you testified earlier that because of the type of reasons that I have just mentioned, you felt that the companies liability down the line was not there. If I was to tell you that there was no restriction on the corporation from raising additional funds from any other sources would there by any change in your testimony as to the viability from the company down the line?

A No, I don't think so. If we couldn't raise money as we have been trying hard to do with the total rights to the patent, I think Alrac would not have a great deal of money on a small portion of that.

Q Now, with respect to the percentage that is still at the plan, were these people who you had selected as employees such as Dr. Peters, Dr. Striker?

A That's correct, yes. In their respective areas. Mr. Striker is here. I don't want to embarrass him. He is qualified as an engineer. His job was to build a plan and operate it. I don't think he would develop new products.

Q Dr. Peters is here and Dr. Peters is involved in product development?'

A He is one of the two people I mentioned this morning.

Q You would feel he is probably qualified or was not qualified?

A I think he is qualified to develop new products in certain areas.

Q Now, Dr. Barnes, as you probably know the grant backs that Alrac has retained -- withdrawn. Are you aware of the fact, under these contracts that Alrac has retained the ownership of it's patents in the foreign area and had granted to Chevron a nonexclusive right?

A Yes, I'm well aware of that.

Q Isn't that a potentially great market that's involved there?

A I don't think so.

Q Why is that?

A May I have a few minutes to explain it.

Q Go right ahead.

A In the foreign area, Chevron by it's nonexclusive license has, of course, to build a plant in all of these countries. It can be argued once Chevron in some foreign country this may enhance Alrac's opportunity to license a second competitor. Now, I feel number one that by the time Chevron builds any plants in foreign countries a ten or twelve year period would elapse. They would have to get the right to license that Alrac has will be running very short on time. These patents

in most foreign countries run fifteen years. The years which already expired the reliceses would toward the end of the period in licensing for any company in the foreign company the most important thing they want is the technology. They are much more concerned in having what they know somebody willing to give. Since the opportunities for licensing will not come up for ten years it is obvious that Alrac would have no use for these companies.

Q This is your opinion as to why have things have real importance?

A I think it's no source of money for Alrac.

THE COURT: May I ask if Chevron were to get into the foreign field would Alrac benefit under it's license agreement from any products that they have?

THE WITNESS: I guess there are royalties payments that's all.

THE COURT: So it would be a total exclusive benefit to Alrac if there was a development only by Chevron.

THE WITNESS: I think you are asking me if that was another source of money.

THE COURT: He was asking you a different question.

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Q Dr. Barnes, although you testified that you signed the April 24, 1974 agreement on behalf of Alrac with Chevron, which is Exhibit D, with certain reservation, you did in fact sign it, is that correct?

A Oh yes, I signed it.

Q Prior to your signing it, do you recall reading the agreement?

A Oh yes, I read it.

Q I bring to your attention a provision, a -- two of these agreements that provides that each party hereto agrees to use it's best effort to fulfill all of the conditions as to it's obligations hereunder. -- I show you the particular provision that I'm referring to?

A I know what you're referring to.

Q You're familiar with what I'm saying. You recall what that agreement says?

A It was my agreement signing as an officer.

Q My question is if you fully recall seeing it?

A Oh yes, I saw it.

Q You did sign it?

A As on the instruction of the board, I signed it. I endorsed it not that I agreed.

Q Dr. Barnes, I want to show you a copy of exhibit D which calls for signatures. This is an unsigned copy and it

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says the undersigned hereby accepts and agrees to the terms and provisions here of Alrac corporation -- there is a line saying it's president?

A That's correct, I signed that on behalf of the corporation.

Q Now, after that agreement was signed, did you remain an officer of the corporation for a period of time?

A For a short time, yes.

Q And as a result of the signing of that agreement, did Alrac make fund -- did Chevron make funds available to Alrac?

A Yes, they did.

Q And didyou not draw a salary as an officer of the corporation from these funds for a period of time?

A For a period of time. Not very long.

Q And did you not receive back payment of various loans which you had personally made to the corporation from these funds as well?

A I don't think so.

Q Did you receive some back salary that was due to you by the corporation?

A Maybe five thousand dollars payments each of the three officers took. Is that the money you're referring to?

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Q You did receive five thousand dollars?

A No, that was back salary. We each received five thousand dollars from that first payment.

THE COURT: Well, that was more money owed to you either as back salary. It was one or the other. It was money that the corporation owed you?

THE WITNESS: Yes.

Q What were you drawing as a slary from the corporation in April of 1974?

A On paper or drawing my salary, fifty thousand dollars a year. I hadn't taken any in two years.

Q You did receive five thousand dollars?

A I did receive after the first payment.

Q In addition to that, did you not receive a salary in April 24 to about June 25 when you believe you resigned as a corporate officer?

A Yes, everyone started receiving money.

Q How much of that?

A At that rate of fifty thousand dollars a year.

Q So that you personally received some benefits as a result of the money?

THE COURT: Isn't that argumentative?

MR. BROWNSTEIN: I suppose it is. I withdraw. It may be argumentative. I won't press it.

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Q You continued to attend meetings as a Board director and Chief Executive which is around June 25 of this year?

A That's correct.

Q And the company terminated you as President of the corporation, is that right?

A Yes, that's correct. I was told that but I didn't receive a letter.

Q I believe you stated you thought the cause was because you weren't supporting the Chevron agreement?

A I assumed that, yes.

Q And you also said you stayed on until the middle of July?

A I resigned. I stayed on a couple of weeks as president and then I was terminated.

Q From April 24 or thereabouts until July 15, when you were terminated, were you receiving a salary from the corporation?

A I have already answered that, yes.

Q Right up until that time? Now, Dr. Barnes, I believe Mr. Evans stated at the last hearing that you had approached various class one creditor's and suggested to them that they withdraw their consent to the proposed arrangement?

MR. EVANS: I object to the framing and the

wording of the question. I didn't suggest that they withdraw their consents.

THE COURT: Maybe you can rephrase.

MR. BROWNSTEIN: I refrain from the question -- withdrawn --

Q Did you approach any of the class one creditors and request or urge them to withdraw their consents after they filed the same with the creditor's committee?

A I approached several of these creditor's and asked them what they had been told and what they understood, that is what I did.

Q Did you go on to suggest that they withdraw their consent?

A I think most of them suggested it themselves. They had been told that creditors under twenty thousand dollars were being treated differently. I pointed that out.

Q Had you seen the copy of the proposed arrangement that was being offered to creditors?

A Well, I think so. It was -- that's the one that was mailed by the creditor's committee.

Q I'm talking about the proposed arrangement that was sent by the Court to all creditors?

A Yes, I received a copy of this.

Q You received a copy from the Court, did you not, sir?

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A Yes, I did.

Q You were familiar with all the aspects of the arrangement, were you not?

A Yes.

Q If I told you that each of the creditors received a comparable copy from the court, would that come as a surprise to you?

A No, I expected that they all had received it.

Q So that, in your discussion between this class one creditor and yourself was there any question in your mind as to what the plan said to creditors?

A Not in my mind but I found in their mind --

Q These are in black and white --

MR. EVANS: Now you're getting into --

MR. BROWNSTEIN: No, I'm not. I'm asking a question.

THE COURT: I think you're getting argumentative. I would like to know why he approached these people.

MR. BROWNSTEIN: I'll ask that.-- I'll withdraw the last question.

A 225

Q Can you tell us why you approached the class one creditors and discussed this?

A Yes, in talking with one of them who was very close to the company and very nice to the company, it became apparent to me, he didn't comprehend. So I had asked one or two others. We didn't know about this and I did mention that some documents had been sent them. They told me that they were very busy and their lawyer didn't even look at them. I talked to one company. Their lawyer was very much surprised when they found this out. Apparently, they didn't read it.

MR. EVANS: It's obvious the plan of arrangement the thing that came up the discussion came up the letter that went out from the creditors' committee which apparently caused considerable confusion --

THE COURT: What motivated you to go around soliciting these people in terms of a stockholder? If a class of creditors were willing to receive less than a hundred percent it was a benefit to the stockholders in terms of dollars and cents. He was acting against interest if he was trying to suggest to a class of creditors that they were being shortchanged.

MR. EVANS: He has a right to that.

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THE COURT: I'm interested in good faith, both ways.

MR. EVANS: Both ways.

THE COURT: Was it in the effort to upset the arrangement?

THE WITNESS: It was an effort to see that these creditors who had been particularly good to the company know what they were doing. I found two or three of these people presently obligated to held them get their money back. They were gone for years. I asked one of them and he didn't know so I had asked the others. That's the only thing that motivated me.

BY MR. BROWNSTEIN:

Q Did you or your consel approach the S.E.C. Prior to it's sending the letter to the Court?

A We had some talk with the S.E.C.

Q What was your motivation insofar as talking to the S.E.C.?

A The motivation was to get more information on what we should do under these circumstances whether this was a proper way to conduct things. Whether we should apply for a Chapter X or not. As far as my point is concerned, it was mostly information. I'm not very knowledgeable in these fields.

Q How many times did you approach the S.E.C. since this case?

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A Three.

Q Three separate occasions on each case you were seeking information on what would be in the best interest?

A Best interest of the creditors and the stockholders.

THE COURT: Do you know if they had discussed this with anyone else besides you?

THE WITNESS: I don't know. I went with different counsel.

THE COURT: How many times did you speak with them?

THE WITNESS: About three times with three different counsel.

BY MR. BROWNSTEIN:

Q When were those times, if you can tell me?

THE COURT: Did you go with Mr. Evans?

THE WITNESS: The last time I went With Mr. Evans.

MR. EVANS: I think it was October 31 if my recollection is correct. Dr. Barnes and I approached them at the S.E.C. office to discuss the matter with Bob Anthony there at the S.E.C. to ask certain information.

MR. BROWNSTEIN: Let him answer the question.

Q There were two other counsel who went with you?

A Mr. Kapiloff was the first one in September. I'm not very sure of the date.

THE COURT: There is one attorney who sent in an application to disqualify me. You made much better choice in my judgment with your present counsel.

THE COURT: Between the time Mr. Kapiloff went and Mr. Evans went, who was the other counsel who went with you and approximately when?

THE WITNESS: I think I went with Mr. Joyce once.

Q Could you tell us approximately when?

A No, I couldn't remember that one very well.

MR. BROWNSTEIN: That's all.

THE COURT: Any other counsel?

MR. MILLER: May I just for a moment.

BY MR. MILLER:

Q Mr. Barnes, you submitted an affidavit in support of your motion in favor of a Chapter X?

A Yes.

Q Did you read that affidavit before you signed it?

A Yes, I did.

Q I call you r attention to paragraph 11 of your affidavit in that paragraph you state to date the development expenditures of April 30, 1974 -- approximately April, 1974. Is that correct?

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A That's correct.

Q Did I hear you a few minutes ago that a significant demand of money was spent on project of Radiation?

A Right.

Q How much was spent on Radiation Research?

A On other research, I guess three hundred thousand dollars.

Q Is that all? I show you a decline from business date June 31, 1972, entitled "Inventors." Do you recall being interview for that?

A Yes, I do.

Q Did you give one to Chevron? Is that article substantially correct?

A Like most --

THE COURT: My experience with the press is that they do not like to check their copy with the man they interviewed which is the right way.

Q Directing to your article --

A I don't remember what you're talking about. We were in the fiber business.

Q Look at the portion entitled "The Diary of the Scientist's Need for Money."

A Yes.

Q In June, 1969, would you read that paragraph which contends to appear to be a quote?

MR. EVANS: Are you planning to introduce that document?

MR. MILLER: When I offer it. I'm asking him questions -- to read things?

MR. BROWNSTEIN: You're trying to refresh his recollection.

MR. EVANS: Let's see what these documents are all about. First of all what is the document?

THE COURT: I think it's probably a little bit unfair to Mr. Evans to listen to these probing questions in the dark. Why not have the witness look at it.

MR. BROWNSTEIN: You can answer the question.

A I think there is some accuracy in all reporters. I won't praise any reliance in that figure at all.

Q It's your testimony that it's three hundred thousand dollars?

A I said a small amount. I was guessing. I don't have an accurate accounting, but the budget of that particular operation was not that large.

Q I'm referring to the section "The Diary of a Scientist's Hunt for Money" raised by Dr. Barnes to this project.

THE COURT: I would say that is quite inaccurate.

MR. EVANS: It's hearsay.

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Q Dr. Barnes, would you please look at the section of the article which refers to the raising of money?

MR. EVANS: I was simply indicating an objection on the basis that this is not an article that we have any basis.

THE COURT: I assume you're trying to get at the facts as to how much was expended on this research?

MR. MILLER: That's correct, your Honor.

THE COURT: You pointed out that the affidavit or the application recites six and a half million dollars has been spent in research and development?

THE WITNESS: May I say that the figure --

MR. EVANS: Wait a second.

THE COURT: The question is a correct figure. How much?

THE WITNESS: That is what my auditors told me.

Q Who are your auditor's?

THE COURT: Your impression is that it wasn't that much?

MR. EVANS: My impression --

THE WINTESS: I think nine and a half million is correct.

THE COURT: If the article in Newsweek say something else, that's incorrect?

Q Just one more question, did you read this article, the one in Business?

A That was several years ago.

Q Did you ever write Business Week to tell them the article was incorrect?

A No, I never did. I can not tell any reporter that this story is incorrect. You can't do very much.

THE COURT: How significant is it? Whether there was three hundred thousand dollars or eight and a half million dollars.

MR. MILLER: I was to ask Dr. Barnes if any loan to a commercial marketable process --

THE COURT: Did you point that they spent seventy five million dollars in development in nylon.

THE WITNESS: I think the product is ready for production now.

BY MR. MILLER:

Q Do you thing the product is ready for the market now?

A That's correct.

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Q How much would it be to build a pilot?

A We Had one.

Q One New Hope Street?

A Hope Street.

Q You have a pilot plant?

A That costs us four hundred thousand dollars.

Q How much would it cost?

A We had estimated in 1973 four million dollars that was good through the first part of 1974. I'm sure it's gone back.

Q Does Alrac have three million dollars?

A We were seeking it. What else were we looking for it for?

Q Dr. Barnes, you said that you marked some documents in connections with the April agreement that indicated you did not consent to it or approve it?

A I didn't say I marked it.

THE COURT: You said that you crossed out "unanimously."

THE WITNESS: I didn't cross it out. It was crossed off.

BY MR. MILLER:

Q Which document was that?

A The closing agreement.

Q You or somebody struck out the word "unanimously"?

A Not me.

Q Do you have a copy of that?

A I have been trying to get one. Chevron took all the copies with them that day.

Q You wrote a letter to shareholders on the day of August, 1974?

A Yes, I did.

Q Did you send a shareholders a copy of the closing agreement?

A I sent them all a letter.

Q And a copy of the closing agreement?

A It said "unanimously." They all said "unanimously." I called Hale and Dorr and told them that it was inaccurate that the documents we signed had the word "Unanimously" crossed out. I never got any action on that.

Q Did you state in your letter of August 8 which is attached to that agreement which you were attaching to everybody a closing agreement?

A I twas not on that subjection of viability. I didn't think that was necessary. It was an inaccurate copy of the printed copy.

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Q Did you ever tell Chevron Research or Chevron Chemical that the closing agreement had been changed?

A I didn't need to. They were right there. It was changed in their presence.

Q Where was that signing taking place, on what date?

A April 24.

Q You didn't ask for a copy?

A Sure I did. They said it would be sent to me.

Q You left?

A I couldn't get them. They took it by their officers and told me they would return it and I never got a copy. I tried to get a copy but it was unavailable to me.

Q Now, Dr. Barnes, you state in your affidavit that the fair and equitable rule in Chapter X was to protect the interest of stockholders. Do you know what the fair and equitable standard is?

A Well, I have only a general idea.

Q Well, it's in your affidavit. What did you mean by that?

A I think That's an unfair question. I can't understand a legal term. I'm not an attorney.

Q Did you ask any questions when you signed the affidavit?

A The same one?

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Q Do you know what the fair and equitable rule means in a Chapter X?

A Only vaguely.

Q What is your understanding?

A That all parties have an equal chance. That the creditors are entitled to the best they can get.

Q That's the fair and equitable rule?

A That is as close as I can come to.

Q Did they tell you about the absolute priority rule in Chapter X?

A Yes.

THE COURT: Don't ask him about this. I don't think that it is fair to ask Dr. Barnes to interpret something that most attorneys can't even interpret.

MR. EVANS: He may be better informed than most attorneys.

THE COURT: That is one up.

MR. BROWNSTEIN: I would submit in support of the fair and equitable rule that Dr. Barnes doesn't understand what it means in terms of protection of stockholders.

BY MR. MILLER:

Q Dr. Barnes, do you know that in a Chapter X motion, that there can be no option or a bidding for the patents?

A Not an option or a bidding. I think that would

take a Chapter VII or whatever you call it.

THE COURT: That's XII under the new involuntary.

Q Does Alrac have any source of income other than money?

A No, there is no way they could have.

Q Commencing January 1, 1975, assuming there was a Chapter X trustee, what would pay for the costs?

A I don't think -- the corporation is going under at the present circumstances.

Q You urge that the corporation be liquidated?

A I didn't say that.

Q What do you mean?

A I think it's quite more favorable if we stop operations down on Hope Street. There is nothing being done there.

Q What you are urging is to close down from the operations?

A Close down the operation and bring in a better deal for the stockholders.

Q You know Mr. Cheever Tyler?

A Yes, I know him.

Q Did Mr. Tyler go with you to get an offer on the patent?

MR. EVANS: Mr. Tyler asked --

MR. MILLER: I'm asking the witness.

THE COURT: What are you asking?

MR. MILLER: Did Mr. Tyler ever offer to assist you or go with you to make an offer on these patents?

A Not that I recall.

MR. MILLER: No further questions.

THE COURT: Mr. Tyler, attorney for the creditors' committee, do you want to ask any questions?

MR. TYLER: I don't want to ask any questions, your Honor.

MR. BROWNSTEIN: I would like to ask two or three questions. You testified that in 1973, you were unable to meet a payroll. You were taking whatever you could get?

THE WITNESS: Somebody paraphrased it that way.

Q You used those words when you were talking about borrowing money from people in class two and short term note holders, is that not so?

A Yes.

Q In other words, you borrowed money in short term note holders at the time you couldn't meet the payroll?

A Oh, yes.

Q Did you borrow -- did you borrow money from people who are short term note holders at the time you had no way of knowing you could pay those loans?

MR. EVANS: I object. Dr. Barnes isn't here on trial.

MR. BROWNSTEIN: You stipulated to the fact.

MR. EVANS: We stipulated as to merely the thing as the notes were issued by the corporation they needed the money and we indicated how much was involved. Neither one of us went into the other merits of the company. I don't think this is relevant, your Honor.

THE COURT: What is the question?

MR. BROWNSTEIN: I will withdraw the question.

MR. EVANS: Wait a second.

THE COURT: There is a question pending, Dr. Barnes.

BY MR. BROWNSTEIN:

Q With respect to the ongoing business of the company, Dr. Barnes, is it not a fact that the company retains right to license nylon-4 process off shore or overseas?

A I've already had been asked that and said yes.

Q Is it possible, Dr. Barnes, as a theoretical question, we could license an overseas corporation to some party comparable with respect to the nylon?

A As a -- ?

Q As a theoretical question?

A Theoretically, yes.

Q If one of these fifty companies or more who had been interested in this process and wanted to come from Iran into the U.S. we could do that today?

A No, we already have a commitment.

Q In some other offshore company, is it possible?

A Yes, nonexclusive licensing in South America.

Q You testified that it would take four million dollars to build the plant?

A That was a firm bid that we had in 1973.

Q That it would only take merely four million dollars to go into business?

A Merely?

Q Well, I withdraw it. It would take four million dollars to manufacture the nylon-4?

A That's the cost to build a fiber plant.

Q Would it be approximately the same costs overseas?

A I don't know. It all depends. I presume it may be more in some and less in others.

Q It is possible that it could get into business under the present sum?

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A I just talked to the cost of the construction of the plant.

MR. BROWNSTEIN: I have no further questions.

THE COURT: Are you aware, Dr. Barnes, that your application for transfer to Chapter X alleges that an investigation of the corporation is necessary. Now, if I understand the testimony correctly, you were the person in charge until about a few months before this came to the head?

THE WITNESS: Yes.

THE COURT: You feel that there are some questions about your management that requires investigation?

THE WITNESS: We were asking for an investigation subsequent to my leaving.

THE COURT: So the investigation you wanted was not an investigation of the corporation. What you wanted investigated was what happened to the corporation after you resigned?

THE WITNESS: Shortly before that.

THE COURT: I see, O.K. I think I understand.

MR. BROWNSTEIN: I would like to ask one or two more questions.

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BY MR. BROWNSTEIN:

Q The corporation shows about something in excess of five million dollars worth of debts owed at the present time, Dr. Barnes.

A Yes.

Q Isn't it true that that was the amount of the debt that was incurred while you were president of the corporation?

A Essentially, yes, I think much was incurred since.

Q Actually, you testified you left the corporation around the 15th of July, is that right?

A That is when I was terminated.

Q I believe you filed the involuntary on August 12, does that sound correct to you?

A One was filed.

Q There was a little less than a months time between the time you were terminated and the time you filed the involuntary?

A That's correct.

Q You remember whether or not there was an ongoing operation at Alrac during that period of time?

A I don't know what you mean about ongoing. It's about the same. The staff has been laid off, I believe, if I'm correct.

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Q When did you believe that the staff was laid off?

A It was laid off when the payments dropped from fifty thousand to twenty thousand. I'm not sure when they were laid off. They were laid off after the change.

Q Is it not so that there was a very new operation of the company from and after the time you left until the filing of the petition, the involuntary petition, in bankruptcy?

A I guess the lay offs occurred between that time for the last -- I guess for maybe two weeks. It was a small operation.

Q Small operation?

A Only for a couple weeks.

Q It was a little bit of time between the filing of the involuntary?

A When I left the full staff was there.

Q Now during that period of time and a little less than a month a little less than two weeks or about two weeks very little that would have been incurred during that period of time, would it not?

A That's correct.

Q So that basically the indebtedness shown on the schedules was an indebtedness that was incurred?

A That's correct, yes.

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MR. BROWNSTEIN: That's all, sir. Thank you.

THE COURT: Now, in your judgment, is the corporation solvent?

THE WITNESS: I don't think we have been solvent for quite a while.

THE COURT: How long have you been unable to pay your bills -- how long have your assets been worth less than your liabilities?

THE WITNESS: Truthfully, a couple of years. We have not been in that position --

THE COURT: When you filed, you were aware of the fact that one of the allegations was that Alrac was insolvent?

THE WITNESS: I'm in a very embarassing position. I retained a lawyer to file a Chapter X. I filed a Chapter VII. I didn't know that I wasn't filing a Chapter X. It wasn't my intention to file an involuntary. I don't know what I can do about it. It's one of those situations.

THE COURT: That's the first time I heard this one. Anything you would like to say, you have an opportunity to.

THE WITNESS: Well, I do have to say some very bad mistakes have been made by my lawyers that I retained.

One example here is not my being a lawyer, I felt they were doing what I thought they were doing and that did not always end up that way. I signed with the understanding that it was a Chapter X. I found out it was a Chapter XI which I had signed.

MR. BROWNSTEIN: I think it was an involuntary petition that was filed, not a Chapter XI just for the record.'

THE COURT: He said that. He didn't know that a Chapter VII was filed instead of a Chapter X.

MR. BROWNSTEIN: Then he started to say, if your Honor pleases, --

THE COURT: That was a slip.

THE WITNESS: Did I say XI, I'm sorry.

MR. BROWNSTEIN: What he said, your Honor pleases, was that he means a ten but in fact an XI --

THE COURT: No, he said that the second time around.

MR. BROWNSTEIN: I just wanted to correct it.

THE COURT: Before you confuse him, he told the truth and he said a VII. Why didn't you do something about it when you found out it was wrong.

THE WITNESS: I understand the Chapter XI was filed. We couldn't do anything about it then.

THE COURT: I always felt there should have been a certified bar to practice law.

MR. BROWNSTEIN: I think Chief Justice Burger point this out recently.

MR. MILLER: But, if your Hnor pleases, at the hearing in Bridgeport Mr. Joyce and Mr. Kapiloff made a Chapter X motion at that time.

MR. BROWNSTEIN: That was stated.

THE COURT: We had a consultation in the clerk's office when you said you didn't know what a Chapter X was until I explained it to you.

THE WITNESS: That's right. But it was my understanding that a Chapter X was filed upon a recommendation of Mr. Kapiloff.

THE COURT: Of course, in Chapter X you wouldn't be in the chair.

THE WITNESS: The stockholder's would be out of the picture. Yes, I had that thoroughly explained. Of course, I think if we could bring in a deal --

THE COURT: No cases are the same obviously. Anything further.

MR. BROWNSTEIN: No, your Honor, I think I could go forward on the question of best interest and

feasibility. I have two witnesses to bring up this point.

THE COURT: Can you do it in twelve or fifteen minutes? You wanted to say something?

MR. EVANS: I wanted to reflect that we had no further questions.

THE COURT: You also indicated no other witnesses?

MR. EVANS: That is correct, your Honor.

THE COURT: You have two witnesses. You could direct and cross-examine in fifteen minutes?

MR. BROWNSTEIN: I can try.

MR. EVANS: What do you want to offer, Gerry?

MR. BROWNSTEIN: I have two issues which is interest and the other is feasibility and my examination can be quite limited. I'm prepared to go forward on it. I'd like to cite something from the Greco case. I have to conduct an investigation as to feasibility and best interest.

MR. EVANS: My examination to supplement yours may be longer than you anticipate plus the question of cross-examination. I don't think we could finish in that time limit. I don't like to inconvenience

counsel since there is a possibility that this would have to be viewed by other authorities. I think the record should be as complete as possible.

MR. BROWNSTEIN: I can't take issue with anything that you hope or said.

MR. EVANS: Would your Honor object seriously if this went to Monday at 9:00 o'clock in the morning or 10:00 o'clock in the morning? I made plans. Mr. Miller said he couldn't be here on Friday. So I said I would come on a Thursday.

THE COURT: Well, is Mr. Miller not able to be here on Friday.

MR. EVANS: That's what he said.

MR. MILLER: What I said is once we started, we would never finish. I suggested we start on Thursday.

MR. EVANS: I wasunaware of this. I have just come from Vermont and I have commitments tomorrow. I see no reason why we shouldn't start again on Monday morning at 9:00 o'clock.

THE COURT: I don't think you need be here. I'm sure you're father is competent.

MR. LEWIS EVANS: Except I have an appointment with a man from Wallingford and an appointment in Bridgeport at 12:00 noon tomorrow.

THE COURT: I think we can probably -- if we start at ten we could be through.

MR. EVANS: I think we can complete this today.

THE COURT: The problem is whether or not Chevron will lower the boom at the end of the month. I don't know but if we're going to continue these hearings in the next week before I can get an opinion it would be well beyond Tuesday night and frankly I expect to spend the weekend hopefully in trying to resolve the issues here and have some sort of a tentative opion to render.

MR. EVANS: We would be here Monday morning at 9:00 o'clock as long as your Honor feels it's necessary. I don't think that's unfair. I just think it's typical that what's happening is that I came back in reliance that we couldn't continue Friday.

THE COURT: Let's go forward now. Go ahead, Mr. Brownstein.

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H A R V E Y W O L F E,

Called as a witness by the debtor, being first duly cautioned and sworn by the Court, was examined, and testified on his oath as follows:

DIRECT EXAMINATION

BY MR. BROWNSTEIN:

Q Mr. Wolfe, what is your connection with Alrac Corporation?

A I'm the executive vice-president of the corporation.

Q When did you first become contacted with the corporation?

A Well, in an official capacity as an officer, I have been a stockholder of the corporation.

THE COURT: Maybe we have heard your relationship to the corporation, was that basically a story of your relationship?

THE WITNESS: Basically correct.

THE COURT: Anything you want to add?

THE WITNESS: Just for the record, I have been a director since 1970 and an assistant secretary for a few years. I was treasurer for a very short period of time and since July, I have been Executive Vice president.

THE COURT: And you have been close to the operation during this time?

THE WITNESS: Yes, I have.

THE COURT: An executive or semi-executive?

THE WITNESS: This is July, prior to that a semi-executive.

THE COURT: Were you involved in the effort to obtain interested parties in the marketing of nylon-4?

THE WITNESS: Yes, I have been from time to time in one way or another. I have been involved in most of the efforts, your Honor.

THE COURT: Are you aware of any other potential customers who came close to any kind of an offer or deal or contract?

THE WITNESS: The one I'm aware of, one that made an offer is American Cyanimid, The funds were far insufficient to maintain the operation in any sense. As I recall, they could only carry about twenty five thousand dollars every six months with the right to extend an option for five thousand dollars a month that would be fifty five thousand dollars a year option for the same rates as Chevron.

THE COURT: Is it your judgment that the Chevron proposal is the only viable one that you were aware of?

THE WITNESS: Yes, your Honor.

THE COURT: Now, supposing that Chevron had not been entered into, could the company have continued to operate?

THE WITNESS: Not in my opinion, your Honor.

THE COURT: There are no sources of funds?

THE WITNESS: Not to my knowledge.

THE COURT: Now, the present investors were those who loaned money in the last two or three years. Are you familiar with the type of individuals and the terms of their relationship with Dr. Barnes?

THE WITNESS: Many of them, I am, your Honor.

THE COURT: Were many of them the kind of people who were totally outsiders in terms of getting into something they knew nothing about?

THE WITNESS: I don't believe so, your Honor. Efforts were made to avoid that type. As a matter of fact, each of those investors was asked to sign an investment letter prior to the consumation of any transactions. There was an effort made, to the

best of my knowledge to inform each of them the status of the company and what was attempted. I don't think there was an effort to avoid bringing the old lady, the little old lady, to invest. It was restricted to sophisticated investors.

THE COURT: Did the investors think they were defrauded in putting their money in to the corporation?

THE WITNESS: I'm not aware of any one who complained of being defrauded. There was a disappointment when a commercial arrangement had not been made, I don't recall anybody accusing or making accusations of fraud.

THE COURT: Dr. Barnes said that he thought the products were ready for commercial adaptation production. Now, is that your feeling?

THE WITNESS: No, it is not my feeling, your Honor.

THE COURT: I heard from some source, there was a problem with a shrinkage of the product?

THE WITNESS: Your Honor, that is a technical question. I'm not a technician.

THE COURT: Neither am I. Maybe I'll understand

your explanation.

THE WITNESS: As I understand, with the information, technical fibers have many features to it that must be met before it becomes a good textile fiber in the comparisons with the shell fibers which there is very little to do. You don't have much control on that and the development with any textile fiber. You have to adjust to it so that the shrinkage and it's strength and it's thickness and size is suitable for the purpose of fabricating. There is still some work to be done.

THE COURT: Could you project a timetable?

THE WITNESS: No, I can't, your Honor. I think that the most substantial problem is the building of a commercial size facility. There are mechanical problems that have to be taken careof. I would say the more significant problem is the problem of production. You have to be able to produce millions of pounds of product in a fairly consistent way.

THE COURT: And you weren't in a position to do that?

THE WITNESS: No, the four million dollars that was mentioned before for a commercial plant

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was in terms of two billion pounds of product.

THE COURT: Well, I think you're going on this afield. My question at the moment is if it is your judgment that you could not produce a commercial feasible product?

THE WITNESS: I think we could in small quanities, your Honor.

THE COURT: Now, do you have a projection as to what Alrac would be doing if and when their plan would be confirmed. Are they going to go out of business?

THE WITNESS: We don't intend to, your Honor.

THE COURT: What is projected?

THE WITNESS: Under the terms two hundred and forty thousand dollars available to the company for operating payable over the next year. During the past few months and during that time we are checking to develop products in these areas that are reserved to the company and also finding ways to get a plant and personnel for purposes other than nylon-4, generally chemical processes. We believe we may have success. We are checking other developments and other sources.

THE COURT: There is no present expectations that business will just be terminated?

THE WITNESS: No, not at all, your Honor.

THE COURT: I'm sorry. I hope I have saved time.

MR. BROWNSTEIN: I think you did. I'll just pursue a little bit further.

BY MR. BROWNSTEIN:

Q In addition to the two hundred and forty thousand dollars, has any money been held from the four hundred and fifty thousand dollars which will be received at the closing?

A Yes, we tried to withhold approximately and very generally between fifty and a hundred thousand dollars for efficient working capital to get through the year and also in the event for the need of capital financing for equipment.

Q Insofar, you can tell that the four hundred and fifty thousand dollars together with three hundred and fifty thousand dollars should see one year of operations?

A Yes, I do.

Q Now, is it the company's intention to remain in business?

A Yes, it is.

Q Have we negotiated a new lease with the landlord?

A Yes.

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Q Has there been a retention of a nucleus of technical personnel by the corporation?

A Yes, there has been.

A And there is a plant on Hope Street in Stamford that is equipped with equipment that can be used in connection with the continued operation?

A Yes, there is.

Q At the present time, is the company in negotiations with various potential customers who are interested in the development on the new product?

A We're in discussions with some companies.

Q They involve the grant back rights. Is that not so?

A Yes.

Q Does the company have any security indebtedness other than the indebtedness of Hartford National Bank?

A Except for that created during the pendency of these proceedings.

Q You're talking about this certificate of indebtedness that will be paid by Chevron in the closing agreement?

A Yes.

Q Now the plan has been the arrangement that has been the proposed breaks them into three different classes. One, two, and three, is that right, Mr. Wolfe?

A Yes, it is.

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Q Is it not contemplated that the creditor's in class one who have indebtedness up to a hundred dollars will be paid in full?

A That's correct.

Q And this will be within sixty days of the confirmation?

A That's anticipated, yes.

Q Insofar as creditors whose claims in excess of one hundred dollars but less than one hundred and twenty dollars will receive and they will also be paid within sixty days of confirmation?

A Yes.

Q That will then leave only class two and class three creditors who will be paid out within the longer period of time?

A That's correct.

Q Is it not anticipated that the class two creditors will be receiving -- will be paid in full by the sixth year of the plan?

A Yes, I believe so. Obviously the plan will speak for itself.

Q Insofar as the class three creditors are concerned, they will be paid out by the tenth years of the plan?

A I believe so. I believe that's correct.

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Q If I told facts in both instances would you then accept that?

A Yes, I would.

THE COURT: Let me interrupt. The contract with Chevron was this consumated according to expectation that would complete finance the arrangement with creditors?

THE WITNESS: That's correct.

THE COURT: So that no new funds have to be generated to take care of the creditors under the plan?

THE WITNESS: That's correct.

BY MR. BROWNSTEIN:

Q And the plan was specifically described within the framwork of the royalty payments?

A The minimum payment.

Q So if, in fact, there is more than the minimum royalty payments that are received by the corporation that they could be used for general corporate purposes?

A That's correct.

Q For other product development, for example?

A Yes.

Q In addition to the projections under the arrangements that would enable creditors in class two and three to be paid in full over a period of years, are they not to be issued each

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class seven hundred and fifty thousand shares of stock of the corporation?

A Yes, that's true.

Q Adn what are the reasons?

MR. EVANS: Your Honor, I'm going to object to testimony along this line. It's repetitous. This is something that was spelled out in the plan. This testimony is one on the particular line of a major modification that was not made too clear to the creditors.

THE COURT: How can his testimony modify the plan?

MR. EVANS: This type of reasoning is not -- this would amount to a major modification of the plan.

THE COURT: How could anything he says modify the plan?

MR. EVANS: By the type of interpretative comments he is giving. He testified without telling creditors of the fact as to why they got the stock.

THE COURT: Well, he is only testifying what went on. He is only testifying as what went on in the thinking of the directors when they agreed to the

plan. Well, the plan is the conclusion of the reasoning of the parties. I'll overrule your objection.

MR. EVANS: Well, what motivated the granting of the stock to the class two and class three creditors?

THE WITNESS: The basic motivation in a company's agreement to issue the stock was the fact that it was demanded and very intensive negotiations in the creditors' committee. The reasons expressed was because of a forbearance of the waiver of interest because of the delay in payment in terms of class two and three, a little less so and also because of the risk of receiving back anything because of the context of the Chevron agreement that those classes of creditors might end up with nothing at all. It was felt for taking that risk and foregoing any participation of the four hundred and fifty thousand dollars they were entitled to an opportunity to get better rewards.

BY MR. BROWNSTEIN:

Q I this company found it necessary to seek Chapter XI relief but was in effect solvent, when would the debentures receive anything?

A The subordinate -- I believe it was 1984.

Q As contemplated by the arrangement, when will that be paid in full?

A I think it's 1986.

Q During the period -- by 1984, after the arrangement is structured should a considerable amount of principal be repaid to the debenture holders?

A Yes, I believe it would be.

Q Actually, what we're talking about basically, is a postponement of the balance of the principal payment for the period of two years as now structured, is that so?

A Yes, it is.

Q If it were to develop in this matter, Mr. Wolfe, that Chevron would not advance further funds after January 1, 1975, will the corporation have any money to continue to protect the patents?

A No, it will not.

THE COURT: What was the question again please?

MR. BROWNSTEIN: If Chevron fails to provide cash after January 1, 1975, will the company have moeny in which to protect thepatents and his answer is, no, it will not have the money.

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Q As a matter of fact in the Chapter XI proceedings Chevron has on certificates of indebtedness under an appropriate occasion made monies available to meet these expenses, has it not?

A That's correct.

THE COURT: How much is owed on certificates of indebtedness now?

THE WITNESS: I think it's twenty six thousand dollars?

MR. BROWNSTEIN: No, I think it's fourteen thousand dollars. There was an initial advance of sixteen thousand dollars for security payments. There were four advancements of two thousand dollars to get us through the d of December. That would make it four thousand dollars.

THE COURT: Where would there be any funds to pay back these certificates of indebtedness if the plan were to be abandoned at this point?

THE WITNESS: There would not be. There may be a little money left at the end of the month that has not been put on the monthly payment. There is not enough to cover the total amount of the certificate.

Q If there was no confirmation would Chevron's licensing agreement remain in effect?

A Yes.

Q When are the first royalties?

A January, 1977.

Q 1977, is that correct?

A Yes.

Q Under those circumstances, if we fail to confirm and Chevron had no obligations to make any payment until January '77 would there be any money to keep the foreign patents alive?

A No.

Q Would there be money for additional product developments?

A No.

Q Would their debts under a hundred dollars?

A No.

Q I think you ought to speak in your opinion. Would bankruptcy ensue?

THE COURT: Is the witness -- oh, he is a lawyer.

MR. EVANS: That's true, he is not a scientist. I think Mr. Brownstein has exceeded the thirteen minutes he represented.

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THE COURT: I took thirteen minutes of the time.

BY MR. BROWNSTEIN:

Q Prior to the time that the Chevron transaction was consumated, Dr. Barnes testified there may have been upwards of fifty possible prospects looking into the acquisition for the product, is that so, Mr. Wolfe?

A In the context of some commercial arrangements concerning the company of the product I would say that was an accurate guess.

Q You testified a moment ago there was only one firm proposition as I recall. I think that was twenty five thousand dollars for six months?

A Other than the arrangement with Chevron.

Q As a matter of fact, don't we have a situation where a company that may otherwise be interested is running into some antitrust provision?

A I can only guess. I think that may very well be possible.

Q For example, was Dupont interested in nylon-4?

A To my understanding Dupont is under a consent decree which prohibits acquiring products by acquisition to that extent. I think it would be difficult for Dupont it's only my guesstimate, I don't really know.

Q And if the money were to dry up after January 1, 1975, you have any reason that the personnel would desire or be able to continue on working for the company?

A Absolutely not including myself.

Q Would it be fair to say that this is the only viable transaction available in it's present posture?

A Yes.

MR. BROWNSTEIN: That's all.

THE COURT: You have an opinion? Are you going to put Mr. Grace on.

MR. BROWNSTEIN: Yes.

THE COURT: I'll save my security questions for him.

MR. BROWNSTEIN: That's all, Mr. Wolfe.

THE COURT: Do you have any questions?

MR. EVANS: Your Honor, with the understanding that Mr. Barnes's testimony applies to all the things here that we would offer which I had agreed to in the past and with the further understanding that I brought to the Court's attention there are various socalled clauses that terminate the transaction --

THE COURT: My question is, do you have any questions.

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MR. EVANS: I'm making a statement in lieu of those things are accepted. We don't have to question Mr. Wofe. We are trying to expedite this thing today.

THE COURT: : I don't think I understand?

MR. EVANS: On the record, Dr. Barnes has testified.

THE COURT: He testified.

MR. EVANS: All of his testimony applies in the sense rather than question.

THE COURT: Obviously, it's testimony.

MR. EVANS: In other words it's here as in lieu of questioning Mr. Wolfe we're asking that the testimony --

THE COURT: You might question Mr. Wolfe as to the statements he has made to attack his credibility.

MR. EVANS: In thie interest of time, your Honor --

THE COURT: Cross-examine.

MR. EVANS: We have no questions for Mr. Wolfe now.

THE COURT: You mean you don't want to cross-examine here?

MR. EVANS: We made our statement, your Honor.

THE COURT: That is all right with the court, but as far as the record shows you don't want to cross-examine this witness.

That's all, Mr. Wolfe, you can step down.

D A V I D G R A C E ,

called as a witness by the debtor, being first duly cautioned and sworn by the Court, was examined, and testified on his oath as follows:

DIRECT EXAMINATION

THE COURT: I don't think it's necessary to establish he is a member of a firm which is involved in some financing arrangement with the corporation. You've heard the testimony of Dr. Barnes as to your relationship with your company?

THE WITNESS: Correct.

THE COURT: Do you have anything further -- do you have any further statements as to your relationship?

THE WITNESS: No.

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BY MR. BROWNSTEIN:

Q As soon as I can find my notes, if your Honor pleases. Please bear with me for a moment.

THE COURT: Dr. Barnes, would you like to sit up at counsel table. I assume you want to listen. Come in as close as you want.

DR. BARNES: Thank you.

THE COURT: I don't think it will bother counsel.

MR. EVANS: If Mr. Brownstein would mind telling us what he proposes to prove by this witness. If we are in agreement, this will very well shorten it.

THE COURT: You want to try that, Mr. Brownstein?

MR. BROWNSTEIN: Just one moment.

THE COURT: The question is whether or not you want to make a statement in lieu of testimony of this witness.

MR. BROWNSTEIN: I would be willing to do that to an extent. What would I be attempting to establish is that he handled the placement which is already in the record that he could testify that there is virtually no market at the present time, that there is an asking price of, I believe, twenty five cents and this was a bid, am I correct.

A That's the last one I know of it.

Q The asking price is twenty five cents?

A Thirty-eight cents.

Q That it is his opinion that the stock as it presently stands would have a value of about fifteen cents a share that is if the stock was issued persuant to a plan and the stock was legended and I'll reserve my rights on that to get into that in a moment.

THE COURT: What was the word?

MR. BROWNSTEIN: If it contains a legend on it, that it would drop down to something less than five cents a share if it were sold in volume.

THE COURT: Well, may I ask at this time -- I didn't find anything about the nature of the certificate that was going to be issued. I think it's pertinent whether there will be a legend on it.

MR. BROWNSTEIN: If your Honor pleases, I proposed to hand up onto the Court a legend that we prepared to put on the stock. This too would be in the form an immaterial modification of a plan. I think it meets the requirements of the S.E.C. I think this also reflects existing law, if your Honor pleases.

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MR. EVANS: This is not along suggestions made at the meeting in chambers with your Honor last week, a plan proposed amendment to the plan of arrangement. Quite different than what I thought was going to be here on testimony for the issuance of common stock.

MR. BROWNSTEIN: The reason for the issuance is to put it on the record.

MR. EVANS: You can't propose an amendment to the plan of arrangement at this late date.

THE COURT: The amendment, Mr. Evans, that's a short paragraph that's in quotes. The amendment is the entire two page. It really goes to the question that Mr. Evans is concerned about. It really is made to insure that the security action will be fully complied with in case there is any question whatsoever. The question was whether you have seen this proposed legend?

THE WITNESS: I read the legend, yes, your Honor.

THE COURT: The question is if the legend is on the stock whether this stock would have a greater or lesser value in five cents a share?

THE WITNESS: Let me qualify my statement if I may. The price in which the stock will sell depends on the circumstances of any given moment. If you were seeking to dispose of stock with a legend, it may be sold in a private field. It may not be sold in any public transaction whatever that would violate the very purpose of the legend. It would sell at a substantial discount for whatever the market was at the time probably fifteen percent.

THE COURT: Well, if I understand what you're saying is that with a legend on here it would restrict the viability of the stock as a commercial interest?

THE WITNESS: Very much so.

THE COURT: You also said that at some point in time confirmation of a plan can give you some higher value?

THE WITNESS: Confirmation of the plan would give the presently readibly saleable shares a higher value than their present value.

MR. BROWNSTEIN: Well, that was my offer of proof, if your Honor pleases.

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THE COURT: Well, I will find that the proposed arrangement amendment to the arrangement is not prejudicial and that it can be accepted without the necessity of notice to creditors.

MR. BROWNSTEIN: Thank you, your Honor.

MR. EVANS: We have stated our objections to report, if your Honor pleases, to the effect this is a major change.

THE COURT: This is a major change?

MR. EVANS: Your imposing on the assurance of the issues of the stock that has not appeared in the plan to date.

MR. BROWNSTEIN: If your Honor pleases, there is nothing in the plan that says it will restrict stock.

THE COURT: That's true.

MR. MILLER: If your Honor will ferer to the letter from the commission the order confirming that the plan has that type of legend. It was not considered a material modification.

THE COURT: What you are saying is that the legend legally is restricted stock. To the extent that

Mr. Evans -- the amendment provides that within two years the debtor registers the stock. That is a favorable thing as far as the stockholders are concerned.

MR. EVNAS: From the standpoint of the holder or creditor who gets these shares of stock he is going to say not until now have I been told this was part of the plan. I think we are correct in making the objection to an amendment.

THE COURT: If this provision were attempting to register were prejudicial, I'd say you are right. But, this provision isn't, this gives them a plus so far as the stock they're going to get.

MR. EVANS: Your Honor, we object to the stock in the first place. We object to propose a modification of this nature assuming that the stock would be issued. This is a major modification. This stock is going to be prejudicial. It's restricted. They can't sell it unless there is a registraction.

THE COURT: No, you misunderstand it.

MR. MILLER: If your Honor please, the act does not grant an exemption in respect to stock issued by

A Chapter XI debtor. The Shareholders who receives the stock can't send that stock to the open market unless they are registered under the provisions of the '33 Act. What the debtor is doing in this case is giving shareholder --

MR. EVANS: That's not a provision of law.

THE COURT: I have made my ruling and at the least it gives you another basis of appeal.

MR. BROWNSTEIN: Have you finished.

THE COURT: I think that's all.

MR. EVANS: Nothing furthur, your Honor.

THE COURT: May I ask this, a capital statement would indicate at this point stock is actually valueless. Why would it have a value of five cents?

THE WITNESS: If sold in volume.

THE COURT: If sold in vaolume?

THE WITNESS: Basicly, your Honor because there are people who are willing to speculate and that's all anyone who would do in a stock of this kind, and the possibility that your Honor will confirm the plan a -- that the Chevron deal will close -- see that Chevron will not step away from the transaction at the end of a year and so on.

THE COURT: What you are saying is that Wall Street is always six months ahead of the times. I hope so because it may have gone up. Are there any sales?

THE WITNESS: To my knowledge 15 shares at 25 cents three days ago.

THE COURT: Before that, were there any other sales that you know of?

THE WITNESS: No sales of even that size that I know of proceeding two or three weeks.

THE COURT: O.K.

BY MR. BROWNSTEIN:

Q I just want to ask for example if there was 20,000 shares of stock and he bought it for a nickle would he spend $1,000?

A In round figures, plus commission.

Q He can take that as a tax lost, can't he, of $1,000?

A He certainly won't be able to take it if this plan is confirmed, secondly, the IRS will not accept the fact that a company is in bankruptcy in any one of its various Chapters as a means of determing a tax loss. You must effect a sale.

Q I'm assuming that eventually these 20,000 shares become worthless. Doe s he have a tax lost of $1,000 under

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those circumstances?

A If those shares are worthless, the IRS would accept a tax loss.

Q And if something happens about the price of this, he has got to have someone prove it?

A Not if he has a loss. If he has a loss he couldn't claim his loss until there was some kind of a legal procedure which would determine that it is through. Thereafter he wouldn't show a profit under the same stock.

Q I'm talking about if the corporation went down the shute?

A Yes.

THE COURT: That's true. That's something we are all trying to prevent.

Did you want to examine?

MR. TYLER: Thank you. No, your Honor.

THE COURT: Mr. Miller?

MR. MILLER: No, thank you.

THE COURT: Thank you very much, Mr. Grace.

I just have one question I'd like to ask you, Mr. Grace. It's not exactly relevant, but would you be in a position to estimate what the value, for the Court's purposes, what I could consider to the distribution to the creditors as its being worth. What would the share of stock be worth to

the creditors who receive it under Class Two or Class Three?

THE WITNESS: Well, all I can do, your Honor, is to give you a rank based upon the present market for the shares. I would give the shares a top price of 7 cents, and I don't know what the bottom price might be. It would depend upon whether someone was trying to do business for he would have to seek out another individual who was willing to assume the same obligations that he has relative or would have under this legend that you have before you and maybe that other person would already be a shareholder or a debenture or another debenture holder looking that matter from the standpoint that I did representing the debenture holders on the committee. I regarded their obtaining this stock as being something which they received because they had in effect made a contribution to the capital of the corporation by giving up their rights to receive interest over this period and also by taking certain risks which were not originally contemplated.

THE COURT: Now, the class two stockholder, they're getting 100 percent of there obligation? The noteholders plus stock on the basis of one share for every two, two and a half?

MR. BROWNSTEIN: The entire class share pro rata is 750,000 shares, whatever that prove to be.

THE COURT: What I had in mind is the convertible privilege of the class three.

MR. MILLER There are some in class two.

THE COURT: There stock was convertable on the basis of one share for each one, two or three dollars, something like that?

THE WITNESS: Class three end of the plan is one share for each two dollars.

THE COURT: And in class two?

THE WITNESS: Class two, there is no convertible according to my recollection except that certain warrant right continue to exist.

MR. TYLER: If I may. In class two, two have short term notes. One of those short term note holders is the eight and a half percent convertible note group and they have retained in the plan the right to convert their eight and a half percent notes to the basis of two dollars.

THE COURT: That's class two.

THE WITNESS: As a special or limited group of various note holders, you remember Dr. Barnes testified in order of chronology that the debentures, the eight and a half percent notes, were sold for

the short term from nine months to one month obligations. The class two contained the one month plus the second group, eight and a half percent, and those notes had per share of stock that in well as of the debenture is retained in the provision in the plan.

THE COURT: Now in the plan, paragraph C, to the extent any holder in its conversion rights and the principle obligations owed to such holder shall be reduced accordingly?

THE WITNESS: That's right, your Honor.

THE COURT: Could you rephrase that. Supposing a plan has $10,000 of obligations and he has some conversion privileges at the present time he is going to get the $10,000 and he is going to have the right to convert as well?

THE WITNESS: He will have an obligation to the company to pay him $10,000.

THE COURT: Plus the right to convert to stock?

THE WITNESS: If he was to extinguish that obligation.

MR. BROWNSTEIN: Or a portion of it.

THE COURT: To the extent he converts the $10,000 as a reduction. Yes, he is really not paying double.

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THE WITNESS: In the conversion not at all. It is our contention there is no double payment in this plan. What is ever in the conversion situation the investor is taking the gamble that the stock will be valuable, more valuable than his original investment which in this case was a long transaction. He extends his debtor stock so that the stock wil have a higher value to him then the original debt. In that sense, it is the real change.

THE COURT: Anything furthur of this witness?

MR. EVANS: No, your Honor.

MR. BROWNSTEIN: Now, your Honor.

THE COURT: I wonder, Mr. Tyler, I'd like to ask you a few questions for a few minutes.

MR. EVANS: Your Honor, first before you go on, I'd like to thank your Honor for letting us finish today.

THE COURT: When I catch it from my wife, I'll tell her you thanked us.

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C H E E V E R T Y L E R ,

called as a witness by the Court, being first duly cautioned and sworn by the Court, was examined, and testified on his oath as follows:

THE COURT: You were acting as attorney for the creditors' committee?

THE WITNESS: That's right, your Honor.

THE COURT: I'd like to get something on the record about the kind of a bargaining that went on in terms of a plan that evolved. Mr. Brownstein indicated with emphasis that some of these provisions were reluctantly agreed to be the debtor. Could you tell me how the thing worked out in terms of negotiations. How many times did you meet?

THE WITNESS: I don't recall how many times we met. I think it was probably four or five times with the committee in full, and then meetings between John Krick, and myself, and Mr. Brownstein were very frequent during the period somewhere in the nature of seven to ten including a substantial number of telephone calls and letters.

THE COURT: Over a period of how long?

THE WITNESS: I suppose that began shortly after August twentieth and is continuing through today, but the creditors' committee essentially

ceased meeting, Oh, I would say two or three weeks ago, if my memory serves me right.

THE COURT: Was there anything special that required so many meetings?

THE WITNESS: There were a great many competing interest in this arrangement, your Honor. There was a question of this class one debtor which had to be treated in a fair way. A question of the various classifications I suppose or portions of the class one debtor. There were the competing interest between the class two and class three creditors that had to be bargained over. There was a question of of a corporations very sincere interest, in my opinion, to try and survive and stay in business to retain the maximum amount of the working capital that is possibly could. That it could dvelop the products or develop -- there was a substantial amount of bargaining and giving and taking throughout the negotiations.

THE COURT: How representative was the creditors committee?

THE WITNESS: It's difficult to say. I can'

describe the members of the committee in terms of their makeup. I had originally been involved in this proceeding. I had been asked to do so by members of Class two. I was a member of the creditors' committee and with me were other members of the class two group, in particular Frank Snyder. Mr. Snyder had been asked by most of the noteholders in writing to represent them in these proceedings. So the class two group was represented essentially by myself and Mr. Snyder. In the class three classification, Mr. Wakeman and Mr. Grace represented, I believe, a majority in number and amount of the class three debenture holder. First National City Bank of New York was represented throughout the proceedings and still is by Sherman and Stearling who is very capable counsel in New York. And Dr. and Mrs. Barnes were on the creditors' committee and their counsel were at every meeting that I attended or practically. The class one creditors were represented by John Krick who had clients both in the under $100 and over $100 catagory.

THE COURT: Were any of the class three creditors also stockholders? Do you know?

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THE WINTESS: I don't know the answer to that, your Honor. I believe so.

THE COURT: Were there any direct representations of stockholders other than Mrs. Barnes?

MR. EVANS: Mrs. Barnes is not a stockholder.

THE WITNESS: I don't believe Mrs. Barnes is a stockholder of the corporation. On the other hand, the debtor was represented by Mr. Wolfe who was at all the meetings as well as Mr. Brownstein. They were constantly concerned about the stockholders interest. I suppose I took the view that the company really did represent the stockholders, and I should say they did so very vigourously.

THE COURT: Would you catagorize the bargaining as hard bargaining?

THE WITNESS: It didn't come easy.

THE COURT: I didn't think so.

Would you like to ask a couple of questions?

MR. BROWNSTEIN: Yes, I'd like to.

BY MR. BROWNSTEIN:

Q Was Mr. Sulden also a member of the creditors' committee?

A I overlooked Mr. Sulden. He was a member of class two as well as class three if I recall.

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Q Wasn't he a very vigorous advocate for various positions?

A Yes, he was.

Q And did he not file on behalf of the corporation a plan, and then we had to go back for additional conferences and new modifications and a modification was made of it, of the proposed arrangement?

A The original plan that was filed by you, on behalf of the corporation was unacceptable to many of the members of the creditors' committee and had to be thouroughly renegotiated.

Q And wasn't that very strenuous?

A Yes.

Q Well, is it your judgment that various competing interest were well represented in the negotiations that ended up in the plan?

A I think so, your Honor. I don't think I could catagorize any of the representatives other than to say they were able and thorough and consientious. Those who came long distance were very punctual and regular at all of the meetings. I think the counsel for trustee were at all the meetings. The Evans are here representing their interest. They were very vigourous and active in my judgment.

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THE COURT: Did the creditors committee interpret the plan for the creditors, solicitate the acceptances?

THE WITNESS: Well, I don't know that I could say that they interpreted the plan.

THE COURT: Did they made recommendations?

THE WITNESS: They made recommendations.

THE COURT: But your not familar with any direct soliciation?

THE WITNESS: I think Mr. Krick was doing alot of that. It was a little confused, your Honor, perhaps because I was a little inexperienced in these matters myself. I did a few things that were a little out of the ordinary. I mailed a letter to the class two group which was different. I did not see class one and class three. It did refer to the plan and I invited the creditors to determine the plan and to that extent it was explained.

THE COURT: Did your letter explain to the best of your ability the implications of the plan as to class two creditors?

THE WITNESS: Yes, I believe so.

THE COURT: Did you have any complaints from any of them or further inquiry?

THE WITNESS: In class two, no. Well, I will retract that. Yes, I did. Again perhaps my letter

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was a letter in part told in terms of the fairness of the plan. I think they were satisfied with it.

MR. BROWNSTEIN: May I inquire.

BY MR. BROWNSTEIN:

Q Was Mr. Gurety a member of the creditors' committee?

A Yes, he was.

Q Had Mr. Gurety been a principle officer of the corporation?

A I understand that to be true.

Q If I recall, his claim was in excess of $20,000?

A That's on the schedule.

Q Were you in attendance at the meeting that I conducted in New York just prior to the continued meeting, the first meeting that was held here in Hartford?

A Yes, I was.

Q And at that meeting could you tell us what you recall? How many people were in attendance?

A Well, I would suppose that there were very much likely, as an estimate that came, 50 or 60, I would say.

Q And was that at that particular meeting?

A (No Answer)

Q Do you recall I called that meeting at the suggestion of the Judge, Judge Seidman, as a result of the first meeting conducted in Bridgeport?

A That's my understanding.

Q At that meeting did you explain the plan to the creditors entirely?

A Yes, I thought I explained it thoroughly.

Q Did they leave the room as they organized themselves into a creditors committee?

A That's right.

Q And then they came back in and you informed them who was on the creditors committee?

A That's correct.

Q In your opinion, were the people who then served on the creditors' committee representative?

A I think so. As I testified in response to Judge Seidman's question, I think it was representative. In addition, I think at the meeting called in New York it was a representative group and it was a substantial opportunity for everyone who wanted to be on the creditors' committee, to be on it. Everyone who wanted to be included was included, there was no exclusions.

MR. BROWNSTEIN: If your Honor please, attached to, I think Mr. Grance and Mr. Wakeman's affadvit is a copy of the letter submitted to the class three creditors. I believe I saw it there.

THE COURT: Yes, there is a letter to the debenture holders.

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MR. BROWNSTEIN: I'd like to put that into the record. Do you have any objection to that?

MR. EVANS: You make the offer, I don't care.

THE COURT: I'm sorry. I wasn't paying attention.

MR. EVANS: We are speaking about putting the letter on the record, as part of the record.

THE COURT: If it needs to be part of the record, fine.

MR. EVANS: Well, I want to offer it. Any objections.

MR. BROWNSTEIN: I have no objections.

MR. EVANS: With the understanding that it will be placed as part of the record, that's fine with us.

THE COURT: All right, with that understanding.

MR. MILLER: If your Honor pleases, may I ask Mr. Tyler a few questions?

BY MR. MILLER:

Q Did you ever offer to assist Dr. Barnes in solicitating other offers?

A Yes, I did. I did it in two different ways. I spoke to Mr. Barnes several times by telephone prior to the time that he engaged the Evans firm. I also spoke with the class two group which were closely in touch with Mr. Barnes and

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I looked briefly into the question under Connecticut Law, Mr. Miller, on what would constitute a tortious interference with the rights of Chevron under the plan prior to the date the Court confirmed the agreement. It was my understanding that the third party or corporation having an interest in this technology was concerned that if they appeared in the pending proceedings in any way they would run a risk of being sued by Chevron on the theory they would be interfering. It was my view that the only basis on that could be done would be on a theory of tort and I told Dr. Barnes that. I would be willing prior to the time the agreement of Chevron were as a member of the creditors' committee with any third party. I was told by a member of the class two group that the other two companies had evidently refused to do that and that the matter was left to stand at that.

Q Mr. Tyler, of the claims in class two, the amount is $2,389,000. Voting in favor is $1,463,000, leaving $926,000 voting against the plan in that amount. Is it a fact Dr. and Mrs. Barnes total approximately $546,000 of the negative vote?

A I would have to say that I think that's true.

Q Let me show you computations of the vote on the arrangement. I direct you to the summary of the Exhibit

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of the last two creditors meetings. Now, if you would look at the exhibit, it is a fact aht Dr. and Mrs. Barnes together total approximately $540,000 of the non-consenting votes in that class?

A That's true, and Dr. Banres claims $72,900 which was a contingent claim. That is true, yes.

Q In respect to the class three creditors, Mr. Tyler, isn't it a fact that all voted in favor of the plan?

A That's correct.

Q It's a unanimous vote in class three?

A These are the class three creditors who had filed proofs of claim in consent of that and the substantial additional claims also voting in favor.

THE COURT: You can step down. Thank you, Mr. Tyler.

Is there anything else, Mr. Brownstein?

MR. BROWNSTEIN: I have one other question of Mr. Grace. May I recall Mr. Grace for one question?

THE COURT: Yes, your may.

MR. BROWNSTEIN: Mr. Grace.

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D A V I D G R A C E ,

recalled as a witness by the debtor, was previously cautioned and sworn by the Court, was examined, and testified as follows:

BY MR. BROWNSTEIN:

Q I neglected to ask you one question earlier. Mr. Grace, with the amendment that has been allowed by the Court today, a legend will be stamped on the million and a half shares that will be issued to the creditors in class two and three. Could you tell me in your opinion what the value of that stock will be if issued at that time?

A If you were to dispose of it at the prime time?

THE COURT: Which stock are you referring to?

MR. BROWNSTEIN: The legend stock. That's why I'm asking the question again.

A If you were to attempt to dispose of the million and a half shares of legend stock at this time, you would, in my opinion, get virtually nothing per share because the volume is so great that there would be hardly any bias. I'd pay you maybe a penny or something because the market is so limited so that you don't have any opportunity to negotiate a transaction.

MR. BROWNSTEIN: Thank you, sir, that's all.

THE COURT: Well, what if it were sold at 2,500 shares every two months.

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THE WITNESS: If it were sold at 2,500 shares every two months, your Honor, I would say that the testimony which I gave before which was approximately a 50 percent interest reduction from the bedside of the market and at the time the bedside of the market nor the ordinary registered stock at the time of the sale would be approximately what you might expect to get.

THE COURT: Well, I belive you said 7 cents.

THE WITNESS: Then variously twelve and a half cents bids at the moment. Maybe, I should have had said six and a quarter.

THE COURT: One other question. In your judgment, if this legend stock is issued, do you think it would be the kind of stock that would be unloaded to unsuspecting public in an attempt to have the stockholder recoup some loses?

THE WITNESS: Your Honor, in my opinion, as I understand it, assuming you approve the plan that couldn't possibly happen barring some fraudulent transaction because the stock would not constitute what we call in our business good delivery and it could not be transpired.

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THE COURT: Well, do you think it wouldn't be a matter of hoisting stock of highly doubtful value on an unsuspecting public -- in fact, what your saying is that you disagree as to what appears to be an off hand evaluation be the S.E.C. of the prospect of the public being defrauded by an issuance of the stock in this matter?

THE WITNESS: With caution, your Honor, that agency regulates our business.

THE COURT: I understand. Let it be noted in the record as a cross-examination. It was not volunteered.

Anything furthur?

You can step down.

MR. EVANS: Would you like any more evidence, your Honor?

MR. BROWNSTEIN: Did you want to argue beyond the briefs that we filed?

MR. EVANS: I think you made the statement between the testimony and the breifs every conceivable argument that I could come up with. I think we stand on what we said and what the testimoney has indicated today.

MR. BROWNSTEIN: It strikes me, your Honor, the evidence is in. I could offer additional witnesses. In effect, I think the record is made. I think what I have to say I have said in the brief together with the supplementary one that I handed up to the Court today.

THE COURT: All right, gentlemen, thank you. I will try to get something out as soon as possible.

(Whereupon the hearing was concluded at 5:35 O'clock p.m.)

PROPOSED AMENDMENT TO PLAN OF ARRANGEMENT

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

In the Matter of ALRAC CORPORATION DEBTOR	IN PROCEEDINGS FOR AN ARRANGEMENT UNDER CHAPTER XI OF THE BANKRUPTCY ACT NO. B-74-399

PROPOSED AMENDMENT TO
PLAN OF ARRANGEMENT

The Plan of Arrangement of Alrac Corporation is amended as follows:

"All certificates issued to Class II and Class III Creditors shall bear the following legend:

'The shares represented by this certificate have not been registered under the Securities Act of 1933 and may not be sold, assigned or transferred unless a registration statement under the Securitites Act of 1933 is in effect or an exemption from registration is available.'"

The Company agrees to use its best efforts to register such shares under the Securities Act of 1933 at its expense at any time during a period of two years from the date of confirmation of its Plan of Arrangement. In the event that during said two year period in the judgment of its Board of Directors, the Company shall be unable to

register such shares at its expense, then upon the demand of the holders of 500,000 of such shares the Company shall register the same provided that upon such demand, the Company shall notify all of the remaining holders of such shares that demand for registration has been made and shall invite such remaining shareholders to participate in the registration. Thereafter, the Company will register all of the shares the holders of which shall have requested registration, upon payment of the cost of such registration by such shareholders up to a maximum of five cents per share so to be registered.

Notwithstanding the foregoing, if no prior demand for registration shall have been made as aforesaid, the Company agrees to register all of such shares at its own expense upon the expiration of the said two year period.

ALRAC CORPORATION

By _____
Gerald W. Brownstein
Its Attorney

MEMORANDUM AND ORDER

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

In The Matter Of:	:	
ALRAC CORPORATION, F/K/A: Radiation Research Corporation, DEBTOR	:	In Proceedings For An Arrangement Under Chapter XI No. B-74-399

MEMORANDUM AND ORDER

RE: BARNES MOTION TO DISMISS OR TRANSFER TO A CHAPTER X

An involuntary petition was filed by Dr. Carl Barnes and two other creditors on August 12, 1974. The debtor responded by filing a petition under Chapter XI on August 20, 1974. A creditors' committee negotiated a plan with the debtor which was submitted to creditors and accepted by the requisite majorities in number and amount on December 20, 1974. On December 10, 1974, Barnes filed an application under Section 328 of the Act for an order to show cause why the debtor's petition should not be dismissed unless the debtor amended its petition to comply with the provisions of Chapter X.(1)

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(1) - Bankruptcy Rule 11-15 superseded § 328 in providing that the motion be made to the court rather than to the judge. Because of the urgency of the matter, the court pursuant to Rule 906(c) shortened the notice requirement for the meeting. No party objected.

A hearing was held on December 20, 1974, after notice to the debtor, the indenture trustee for subordinated debenture holders, the Securities and Exchange Commission, Co-counsel for the Creditors' Committee, and the stockholders. An answer was filed by the debtor and the S.E.C. advised the court by letter that it took no position on the motion. A memorandum in opposition to the motion to dismiss was filed by the indenture trustee for the subordinated debenture holders. All parties appeared or were represented. The hearing was continued to December 26, 1974.

The facts while complicated are relatively undisputed. Dr. Barnes, a research chemist, was co-inventor of a patent in 1953. There were basic problems in marketing the invention, and in 1968, Dr. Barnes obtained a patent refining the basic patent. It related to a product called Nylon-4. In the same year, he formed a corporation with Harvey Wolfe and Herb Oscar Anderson to develop the patent application. Because of a shortage of working capital, the parties consulted David Grace, President of Sterling, Grace and Co., Inc. members of the New York and American Stock Exchanges, and a financial consultant. A merger was effected with Radiation Research Corporation, a public corporation having about 1,500 stockholders. The number of shareholders has not changed substantially since that date.

The name of the corporation was ultimately changed to Alrac. To meet urgent capital needs, $3,000,000 in subordinated debentures were sold through Grace. Subsequently, $580,000.00 more was raised by issuing long-term notes, and, ultimately,

$1,100,000.00 was borrowed in short-term notes. Most of the money was loaned by "insiders" and friends and acquaintances of Dr. Barnes, primarily relying on his relationship to the invention and the operation. Despite all of these loans, the development of Nylon-4 required more and more funding that was not forthcoming.

Dr. Barnes and Wolfe decided in 1973 to attempt a merger with a major corporation. Over twenty-five were approached, but only Chevron was interested.(2) Agreements were entered into with Chevron providing for funding on a monthly basis and for a closing agreement which provided for ultimately licensing Nylon-4 to Chevron. In simple terms, the Chevron agreement provided for a payment of $450,000.00 on closing and $8,000,000.00 in annual installments of $500,000.00, beginning one year later. Chevron had the option to cancel the agreement during the first, third, and sixth years, or if the agreement was not consummated prior to January 1, 1975. Barnes, a director, the president and executive officer, participated in the negotiations but took issue with some of the terms finally agreed upon. After March 22, 1974, Barnes did not participate in the negotiations, although he continued to attend meetings and was employed by Alrac. He thought a better "deal" could be arrived at, although no other major corporation showed any interest in any arrangement which would provide the necessary funding for continued operation. Barnes was out-voted by the directors and although as president he signed the agreements with Chevron, on April 24, 1974, he made it clear that the action was not unanimous, and he opposed it.

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(2)- The only other offer received was $25,000.00 for a six-month option which did not meet the company's urgent need for working capital and was not seriously considered. Nylon 4 is still in the research and development stage and is not yet available or suitable for commercial production.

On or about June 25, 1974, Barnes resigned as a director and chief executive officer. Two weeks later, he was removed as president "for cause".

Because the patent rights to Nylon-4 constituted the principal asset of Alrac and the agreement provided for an assignment of the patent rights covering United States, Canada, and Mexico, it was felt that stockholders' approval was desirable. A notice of a meeting to be held August 20, 1974, was prepared. On August 12, 1974, Barnes and two others filed an involuntary petition in response to which the debtor filed its petition under Chapter XI. The stockholders' meeting planned for August 24, 1974 was not held.

An application was filed by the debtor for permission to enter into several agreements with Chevron on substantially the same terms negotiated prior to the filing. At a duly-noticed hearing, at which Dr. Barnes appeared and objected, permission to execute the agreements was granted.(3)

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(3)- Because at the date of filing there was no equity for shareholders, their approval of the contract

with Chevron was not necessary. In re Northern Development Corp., 324 F2d 104 (7 Cir. 1963).

As a result, the funding necessary for continued operation of the business of the debtor was made available. No appeal was taken from the order authorizing the debtor to execute the agreements. Without these agreements, the corporation could not continue operations because of lack of funds.

A creditors' committee was organized. Dr. Barnes' wife was on the committee, and his counsel was permitted to attend the meetings of this committee. As a result of negotiations between the debtor and the creditors' committee, a plan was formulated and submitted to creditors. The plan proposed to divide the general creditors into three classes:

Class I - Trade creditors ($733,619.11) whose claims do not exceed $20,000.00. Claims up to $100.00 will be paid in full. Those exceeding $100.00 will receive $100.00 or 15% of their claims, whichever is greater.

Class II - Short-term notes ($1,277,224.89) and senior convertible 8½% notes ($682,973.38). They will receive full payment in installments over eight years with interest to August 20, 1974, and a pro rata share of 750,000 shares of stock of Alrac.

Class III - Convertible subordinated 7½% debentures ($2,215,000.00). They will receive full payment with interest to August 20, 1974 over eight years in installments, and a pro rata share of 750,000 shares of stock of Alrac. Their rights to convert are preserved with the conversion price reduced to $2.00 per share.

The plan was amended to provide that the stock to be issued to Class II and Class III creditors shall bear the following legend:

> "The shares represented by this certificate have not been registered under the Securities Act of 1933 and may not be sold, assigned, or transferred unless a registration statement under the Securities Act of 1933 is in effect or an exemption from registration is available."

The amendment also required the debtor to use its best efforts to register the shares under the Securities Act of 1933 at its own expense within two years from the date of confirmation.

Alrac was also indebted to the Hartford National Bank for $400,000.00, secured by property of Alrac and the endorsements of Dr. Barnes and his wife. Barnes has filed a claim for $400,000.00 based upon his contingent liability. Although filed as "secured" his claim will be unsecured to the amount of the deficiency of the security Hartford National Bank has and will be included with Class I creditors.

The plan was accepted by an overwhelming majority of the creditors of Class I and Class II and by the unanimous approval by Class III creditors. (4)

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(4) - In excess of two-thirds of the creditors in number and amount entitled to vote in Classes I and II accepted the plan. One hundred per cent of the Class III creditors accepted the plan. These proportions would be sufficient to accept a plan in Chapter X.

By agreement of counsel, the hearing to consider dismissal or conversion to Chapter X and the application for confirmation were held simultaneously on December 26, 1974. Briefs were filed by the debtor, Dr. Barnes, and the indenture trustee for the subordinated debentures.

Under § 328, the court must determine whether "the proceedings should have been brought under Chapter X of this Act." Rule 11-15 provides that if such a finding is made, the case is transferred to Chapter X rather than dismissed as previously under § 328. Rule 11-15(d) provides that:

> "....The court shall, if it finds that the case may properly proceed under Chapter X of the Act, grant the motion and order that the case proceed under that Chapter. The granting of the motion shall be deemed to constitute approval of a petition under Chapter X."

Among the criteria for approval of a petition under Chapter X is that it be filed in good faith, § 141, and § 146 further provides that, "....without limiting the generality of the term 'good faith', a petition shall be deemed not filed in good faith if:

"....

"(2) adequate relief would be obtainable by a debtor's petition under the provisions of Chapter XI of this Act; or ....

"(4) a prior proceeding is pending in any court and it appears that the interests of creditors and stockholders would be best subserved in such prior proceeding."

Obviously, "any court" includes the current proceeding.

Before considering the merits of the motion to transfer, it would be appropriate to comment on good faith generally. It is apparent to the court that Dr. Barnes' primary concern is his quarrel with the other directors as to the nature of the agreement with Chevron. He wanted more generous terms but was out-voted by the board. When his point of view did not prevail, he resigned and shortly thereafter, filed an involuntary petition in bankruptcy against the company he founded, guided through the difficult years of research and development, and kept alive by obtaining infusions of working capital from his friends and acquaintances. He acknowledges the present hopeless insolvency of Alrac and that no major corporation other than Chevron has come forward with any offer. If his involuntary petition had prevailed and an adjudication followed, Chevron could have picked up the pieces at "bargain basement" prices and without question, there would be little or no salvage for general creditors, no prospect of any realization to the holders of subordinated debentures, and a total loss to the stockholders. Possibly, the most devastating proof of his lack of "general" good faith is his failure to refute the assertion in the affidavit of Harvey Wolfe, that during negotiations with counsel for Dr. and Mrs. Barnes, an offer was submitted to the company to abandon their opposition if Dr. Barnes was reinstated as officer and employee, and the debtor would save Dr. Barnes and his wife harmless from their liability to Hartford National Bank ($400,000.00) on account of their endorsement of a note and mortgage from Alrac to the Bank. Dr. Barnes' zeal in attempting to obtain what he hoped would be a better deal for

Alrac is understandable; but in the context of a §328 motion, it raises serious questions of good faith. Possibly, the fact that to date he has had three sets of counsel in these proceedings accounts for his seemingly erratic course.

The basic question is whether the relief required by Alrac can be obtained in Chapter XI. The "needs" test has been articulated by the Supreme Court in General Stores v. Shlensky 350 U.S. 462, 466 (1955) and in S.E.C. v. American Trailer Rentals 379 U.S. 594, 610 (1965). The earlier Supreme Court decision in S.E.C. v. U.S. Realty and Improvement Co. 310 U.S. 434(1940) was concerned primarily with the role of the S.E.C. which was formalized by 66 Stat. 432 (1952) authorizing the S.E.C. to intervene. Consistent with Rule 11-6, the S.E.C. received a copy of the petition and schedules. In addition, Dr. Barnes and his attorney conferred with the S.E.C. The S.E.C. also received notice of the hearing which was held December 26, 1974. Nevertheless, the S.E.C. chose not to intervene, and it advised the court that it took no position on the Barnes' petition.

American Trailer Rentals (supra) reaffirmed the holdings of U.S. Realty (supra) and General Stores (supra) and further held that (a) Chapters X and XI are not alternative methods of corporate reorganization but are mutually exclusive; (b) as a general rule, where a corporation is publicly owned or the public debt needs to be adjusted, Chapter X is appropriate; (c) if the public investors are few in number and are familiar with the operation of the debtor, or where they are greater in number but the adjustment of their debt is relatively minor, Chapter XI is appropriate; and

(d) even if there is no public debt problem, Chapter X is appropriate where public stockholders need protection against mismanagement or in obtaining a change in management. The court cited with approval the guidelines set forth in S.E.C. v. Canandaigua Corp. 339 F2d 14 (2 Cir. 1964) which emphasized the "needs" test enunciated in General Stores (supra). In Canandaigua, the court held that the need for an investigation of management for the protection of public investors was more important than the need to extend payment of unsecured debts which could be accomplished in Chapter XI. Possibly, the race-track atmosphere of Canandaigua, and the suspicion of fraud and mismanagement were too much for the court to countenance. At any rate, the atmosphere of this case is clean. There is no suspicion of improper conduct of the operation of Alrac or its relation to its public investors.

The many cases cited in the briefs emphasize that in each case the court must analyze the facts and determine the needs to be served, i.e., a composition with general creditors, restructuring the public debt, investigation for fraud, etc. Having determined the principal need, the courts follow the guidelines of American Rentals. The court must determine priorities when there are conflicting needs.

What, then, are the needs of Alrac? A pervasive, corporate restructuring? An investigation of corporate affairs by a disinterested party, (the SEC)? Or, were they rather an arrangement for payment of its indebtedness to general creditors and an opportunity to secure the continuity of the corporate operation?

Is there a "need" to apply the fair and equitable test found in § 221(2) of Chapter X of the Act, rather than "best interests of creditors" found in § 366(2) of Chapter XI of the Act.

At the time of filing, the financial affairs of Alrac were literally in extremis. There were no sources of working capital. Key personnel were threatening to leave. Its continued operation depended upon the advances made by Chevron from month to month. Upon confirmation, Chevron is committed to advance sums totalling $690,000.00 within one year. Unless the agreement previously negotiated with Chevron was activated in these proceedings, the monthly payments by Chevron would have stopped. An involuntary petition had been filed. The company was hopelessly insolvent with only one savior on the horizon--Chevron.
What were its needs--a settlement with general creditors or a comprehensive adjustment of public debt? The comments of the court in S.E.C. v. Canandaigua Enterprises (supra) are pertinent where the court said:

> "The 'needs' for the two chapters are not only conflicting but largely imponderable. We know of no scale sufficiently sensitive to weigh the near certainty of achieving a Chapter XI arrangement that may not be altogether fair and equitable against the possible emergence of a better plan from a Chapter X proceeding during which the patient may die before an operating room is ready or for which the fees of the surgeon and others in attendance may exceed the patient's means." At P. 32.

In the instant case, the possibility of achieving a plan is behind us. The plan was negotiated and accepted by the creditors, sufficient even if the plan were offered in Chapter X. The provisions of the plan substantially meet the fair and equitable

standard of Chapter X. The absolute priority rule of Chapter X is met with the exception of the creditors in Class I whose claims exceed $100.00 and are less than $20,000.00. By an overwhelming margin these creditors approved 15% in cash because (1) they did not want deferred payment in full over a period of years, and (2) there was an element of risk in the extended payments because Chevron could discontinue payments at various times during the course of the operation. This provision did not originate with the debtor. It was arrived at by hard bargaining with the creditors' committee. (5)

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(5) - The creditors' committee comprised representatives of all classes of creditors. The hard bargaining was as to how much of the $500,000.00 made available by Chevron annually (1) would be distributed to general creditors, and (2) in what proportions to the Class II and Class III creditors.

The court was advised that the creditors in Class I insisted on this provision. If this proceeding were dismissed, the involuntary petition would be revived, an adjudication would follow, and the patient would surely die.

If the Barnes motion was granted and the case transferred to Chapter X, there is no reasonable prospect that it could survive. Monthly payments from Chevron would cease. Alrac would still be bound by the court-approved license agreement with Chevron at Chevron's option. If it chose to withdraw,

and the case remained in X, the defunct operation would have to be investigated by the S.E.C. Because of the size of its debt, an independent trustee would be required. The implications and complications would be frightening. Of more immediate concern, if Chevron chose to hold firm on the agreements, no deal at all would be possible with any other person. If it chose to abrogate the agreement, this court is of the opinion that Chevron could re-negotiate on a much more favorable basis with a bankruptcy trustee, or if it lasted that long in Chapter X, with the Chapter X trustee. However, long before that time, the matter would have been converted to a liquidating bankruptcy. If an original petition under Chapter X had been filed without the Chevron agreements pending, it is highly questionable whether any judge would be satisfied that the petition complied with the good faith requirement of §146(3) that there be a reasonable expectation that a plan of reorganization could be reasonably expected. With the Chevron agreements pending, the relief can be obtained, as here, in Chapter XI which indicates a lack of good faith under § 146 (2).

The motion urges the need of an investigation. Dr. Barnes admitted that he did not feel an investigation of his management, which existed until a few weeks before he instituted the involuntary, was needed. What, then, required investigation? It is crystal clear that what Dr. Barnes wants is a re-negotiation of the Chevron deal or an opportunity to re-negotiate with others which is impossible so long as Chevron stands on i s contract rights. No other creditor, debenture holder or stockholder

objected to the Chapter XI proceeding. No evidence of fraud or mismanagement suggesting the need of an independent investigation was offered. Chapter X is not needed for that purpose.

Paradoxically, with the exception of a few creditors in Class I (who have accepted the plan), all creditors will receive payment of 100% of their debts. The stockholders who, as of now, have no equity, will retain their stock interest. It will be diluted by the issuance of stock to Class II and III creditors who under the absoluted priority rule are entitled in a Chapter X plan to priority of payment over stockholders. Nevertheless, the plan salvages their interest in a corporation which will be given an opportunity to continue the research program on a smaller scale but with the possibility of recoupment should the development of Nylon-4 applications to be successful. There is no evidence of, nor in fact has anyone suggested, any need or desire for a pervasive restructuring of the public debt. The plan provides for payment in full of the public debt--the only change being a delay in the payments necessitated by the schedule of payments to be received from Chevron.

One last observation. Although the S.E.C. did not join in the motion for conversion to Chapter X, it did emphasize the need for the court to protect the investing public from "trafficking in unregistered stock." So far as the creditors in Class II and Class III are concerned, the stock to be issued is <u>in addition to</u> the payment of 100% of their debts. It is the court's opinion that there has been a full disclosure to the

creditors of the financial condition of Alrac. As to possible purchasers of the stock to be issued, the legend to be borne on the stock restricts any sale, assignment, or transfer unless a registration statement is in effect or an exemption obtained. There is little likelihood of any interest in this stock by any serious investor. David Grace who is an expert in corporate financing testified that the stock to be issued with the legend attached would be worth less than 7¢ per share, and there is presently virtually no market for Alrac stock. The stock is presently quoted at Bid 1/8. Asked 3/8. The court is convinced there is no fraud involved and the registration of the stock will provide whatever protection the investing public might need.

In Grayson-Robinson Stores, Inc. v. S.E.C. 320 F2d 940 (2 Cir. 1963), the trade creditors totalled $10,000,000.00. Public securities amounting to $800,000.00 and secured obligations of $7,500,000.00 were not to be affected. There was no hope of a realization for general creditors in Chapter X. The court concluded that Chapter XI was the proper vehicle. In the instant case, the corporation is hopelessly insolvent. There is no equity for the stockholders or subordinated debenture holders. There is no reasonable prospect of any plan in Chapter X other than the one already accepted in Chapter XI. There is no evidence of fraud or mismanagement (Dr. Barnes was in charge until weeks before the filing). There is no need for a restructuring of the public debt and there is no need for the protection of the public that Chapter X affords through the S.E.C. The S.E.C.

has already surveyed the situation and has not objected to Chapter XI.

The needs to be served are admirably met by the plan overwhelmingly accepted by all creditors affected. The equity of shareholders which was negative at the date of filing is preserved. The interests of the investing public are adequately protected. Since the needs to be served can be adequately satisfied in Chapter XI, it must be concluded that the proceedings need not have been brought under Chapter X of the Act, and the motion of Dr. Barnes must be dismissed, and it is

SO ORDERED.

Dated at Hartford, Connecticut, this 30th day of December, 1974.

SAUL SEIDMAN
BANKRUPTCY JUDGE

ORDER CONFIRMING PLAN

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

In The Matter Of:	:	
ALRAC CORPORATION F/K/A: Radiation Research Corporation	:	In Proceedings For An Arrangement Under Chapter XI
Debtor		No. B-74-399

ORDER CONFIRMING PLAN

The debtor's plan filed on November 1, 1974 as modified by a substitute plan filed November 20, 1974 having been transmitted to creditors, and as further modified by a non-prejudicial modification dated December 26, 1974; and

The deposit required by Chapter XI of the Bankruptcy Act having been made; and

It having been determined at a hearing after notice to consider confirmation of said plan as modified and the complaint of Carl E. Barnes and Sarah E. Barnes objecting to confirmation, and at the same hearing to consider a motion filed by said Carl E. Barnes and Sarah E. Barnes to transfer this case to Chapter X, which motion was denied by Memorandum and Order dated December 30, 1974, and which memorandum, a copy of which is attached, contains findings of fact relevant to Paragraph 2 of this order confirming plan;

1. That the plan has been accepted in writing by the creditors whose acceptance is required by law; and

2. That the plan has been proposed and its acceptance

procured in good faith, and not by any means, promises, or acts forbidden by law, the provisions of Chapter XI of the Act have been complied with, the plan is for the best interests of the creditors and is feasible, the debtor has not been guilty of any of the acts or failed to perform any of the duties which would be a bar to the discharge of a bankrupt;

IT IS ORDERED THAT:

A. The debtor's plan filed on November 1, 1974 as modified on November 20, 1974 and on December 26, 1974, a copy of which is attached hereto, is confirmed.

B. Except as otherwise provided or permitted by the plan or this order:

(1) The above-named debtor is released from all dischargeable debts;

(2) Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following:

(a) debts dischargeable under § 17a and b of the Act;

(b) unless heretofore or hereafter determined by order of this court to be

nondischargeable, debts alleged to be excepted from discharge under clauses (2) and (4) of § 17a of the Act;

(c) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clause (8) of § 17a of the Act, except those debts on which there was an action pending on August 12, 1974, the date when the first petition was filed initiating a case under the act, in which a right to jury trial existed and a party has either made a timely demand therefor or has submitted to this court a signed statement of intention to make such a demand;

(d) debts determined by this court to be discharged under § 17c(3) of the Act.

C. All creditors whose debts are discharged by this order and all creditors having claims of a type referred to in paragraph (B)(2) above are enjoined from instituting or continuing any action or employing any process to collect such debts as personal liabilities of the above-named debtor.

D. All of the property and other rights which are the subject of and are more fully described in that certain Purchase Agreement dated August 14, 1974, referred

to above, and the attachments thereto, be, and the same hereby are transferred to and vested in Chevron Research Company free and clear of all liens, encumbrances, claims or licenses of whatsoever kind and nature, subject only to the terms and provisions of that certain Purchase Agreement and the attachments thereto and the agreements referred to therein; and that certain Purchase Agreement and the attachments thereto shall become immediately effective as set forth in Section F. of the Amended Arrangement.

Dated at Hartford, Connecticut, this 31st day of December, 1974.

SAUL SEIDMAN
BANKRUPTCY JUDGE

AMENDMENT TO MEMORANDUM AND ORDER

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

In The Matter Of:	:	
ALRAC CORPORATION F/K/A: Radiation Research Corporation, DEBTOR	:	In Proceedings For An Arrangement Under Chapter XI No. B-74-399

AMENDMENT TO MEMORANDUM AND ORDER DISMISSING APPLICATION TO TRANSFER TO CHAPTER X

Two inadvertent errors in the statement of facts appeared in the original Memorandum & Order dated December 30, 1974.

The original Memorandum & Order is amended as follows:

The description of the classification of Class II and Class III creditors contained on Page 4A is amended to read as follows:

> "Class II - Short-term notes ($1,277,224.89) and senior convertible 8½% notes ($682,973.38). They will receive full payment in installments over seven years with interest to August 20, 1974, and a pro rata share of 750,000 shares of stock of Alrac.
>
> "Class III - Convertible subordinated 7½% debentures ($2,215,000.00). They will receive full payment with interest to August 20, 1974, over 11 years in installments, and a pro rata share of 750,000 shares of stock of Alrac. Their rights to convert are preserved with the conversion price reduced to $2.00 per share."

The last sentence of the second paragraph on Page 5 is amended to read as follows:

> "Although filed as 'secured' his claim will be unsecured to the amount of the deficiency of the security Hartford National Bank has and will be included with Class II creditors."

The facts corrected by this Amendment to Memorandum are immaterial and do not change the court's conclusions of law set forth in the Order Dismissing the Application to Transfer to Chapter X and the Order Confirming the Arrangement in Chapter XI.

Dated at Hartford, Connecticut, this 22nd day of January, 1975.

SAUL SEIDMAN
BANKRUPTCY JUDGE

cc: Gerald W. Brownstein, Esq.
Robert Evans, Esq.
Dennis J. Murphy, Esq.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF CONNECTICUT

* *

IN RE: ALRAC CORPORATION, Bankrupt, *

CARL E. BARNES, Appellant *

* *

BANKRUPTCY ACTION

B-74-399

JUNE 30, 1975

FILED
SEP 22 9 29 AM '75
U.S. DISTRICT COURT
HARTFORD, CONN.

Before: HON. T. EMMET CLARIE, CHIEF JUDGE

Appearances:

For the Appellee:

GERALD W. BROWNSTEIN, ESQ.
Brownstein & DiPietro
900 Chapel Street
New Haven, Connecticut

For Chevron Research Company:

HARVEY R. MILLER, ESQ.
WILLIAM J. ROCHELLE, III, ESQ.
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10022

ELLIOTT SPERBER
Official Court Reporter
United States District Court

Dkt. Rec'd No. 7

A 322

Appearances (Continued):

For Carl E. Barnes:

EDMOND F. SUPPLE, ESQ.
Amend & Amend
40 Wall Street
New York, New York 10005

ROBERT C. BELL, JR., ESQ.
528 Main Street
New Canaan, Connecticut

THE COURT: Bankruptcy Matter 74-399, ALRAC Corporation.

MR. BROWNSTEIN: If your Honor please, Gerald W. Brownstein, for the Appellee.

I would like to formally, for the purposes of these proceedings, move the admission of Harvey R. Miller, Esq., of New York City, to participate in the proceedings. An appropriate application with sufficient affidavits has been duly filed.

Mr. Miller is an expert in bankruptcy. He's an adjunct professor of law at N. Y. U., where he teaches a course in bankruptcy.

He represents Chevron Research Company in this proceeding. Chevron has agreed to pay, by virtue of various contracts, that are annexed as exhibits in this matter, some approximately nine million dollars for various license rights, and so on, in this matter.

Mr. Miller has been active throughout the proceedings. He is a member of the National Bankruptcy Conference. He is a member of the very prestigious law firm of Weil, Gotshal & Manges.

I which to formally move his admission for the purpose of these proceedings.

THE COURT: Without objection, the motion is

granted. I assume he is a member of the District Bar in New York?

MR. BROWNSTEIN: Yes, your Honor.

MR. BELL: Good morning, your Honor. My name is Robert C. Bell, Jr.. I appear here in behalf of Carl E. Barnes.

I would like to introduce to the Court, if you please, Mr. Edmond F. Supple, Esq.

Mr. Supple lives in Stamford. He is a partner in the New York law firm of Amend & Amend, at 40 Wall Street.

He has been in practice for a substantial number of years. He is particularly skilled in the field of bankruptcy, including Chapter VII, Chapter IX, Chapter X and Chapter XI of the Bankruptcy Act.

I feel that he can contribute here. I wish to introduce him to this Court, and move his admission for the purpose of making comments, arguments, if you will, on this case.

THE COURT: He is a member of the New York Bar?

MR. SUPPLE: Yes, I am, your Honor.

MR. BELL: Yes, your Honor.

THE COURT: Very well, without objection, the

motion is granted. I trust that you will file a written motion, so that there will be something in the file.

MR. BELL: There is a motion in the file, your Honor.

THE COURT: Very good, thank you.

MR. BELL: Thank you.

MR. SUPPLE: Good morning, your Honor. My name is Edmond Supple. Thank you for permitting my appearance before this Court in this matter as a visiting attorney.

Your Honor, I am appearing on behalf of the appellants, Carl E. Barnes and Sarah E. Barnes on two appeals, orders entered in the matter of ALRAC Corporation, by Bankruptcy Judge Seidman, on December 30th, 1974 and December 31st, 1974.

I must request that the matter be adjourned for a sufficient period of time to permit me to respond to a verified brief, which was served upon Mr. Bell on Tuesday of last week. I received it in my possession on Wednesday. I have substantially prepared a rebuttal. I would request approximately a 15 day adjournment, your Honor, in order to have that typed. Frankly, your Honor, I just could not get a typist over the weekend.

THE COURT: You mean you got it down, but it isn't typed; is that it?

MR. SUPPLE: Your Honor, this is what it looks like (indicating).

THE COURT: Why couldn't you proceed with the hearing, and then reserve the right to file that?

MR. SUPPLE: Your Honor, the verified brief -- to answer your question, your Honor -- I would be prepared, your Honor, to forego oral argument upon filing this. I think all that can be said has been said, with the exception of this reply.

THE COURT: In other words, you would let the matter go on the briefs, as submitted?

MR. SUPPLE: Yes, your Honor.

THE COURT: Well, what does your adversary say?

MR. BROWNSTEIN: If your Honor pleases, I object to it. I think your Honor's suggestion that we go forward with the oral argument, and that my brother be entitled to file his reply brief at a later day certainly makes good sense to me.

It could also be pointed out that the matter of oral argument is something that must be specifically requested under our rule. Both Mr.

Bell and I have specifically requested oral argument in this matter.

I don't want to rest simply on the brief. I do wish the opportunity to be heard in oral argument. And I would firmly object to this.

THE COURT: All right. How are you going to be harmed, Counselor, if we follow that procedure: Submit your oral argument, followed by this 15 day period to provide your brief, and the Court will certainly review every word of it. And in the meantime, I trust this morning that the Court will be educated in respect to the respective positions of your oral argument, in the field of Chapter X and Chapter XI of the Bankruptcy Act.

As someone mentioned, there are two professors here -- one professor, I guess -- and two able attorneys. So the Court will trust that you will enlighten the Court beyond the limitations of your present existing brief.

MR. SUPPLE: Your Honor, the two appeals before the Court are from orders of Judge Seidman, as I previously stated, entered on December 30th, 1974 and December 31st, 1974.

The order of December 30th, 1974 is an order dismissing a petition by Carl E. Barnes for

a transfer of the Chapter XI proceeding to a Chapter X, a reorganization under Chapter X.

The order of December 31st is an order confirming a plan submitted in the ALRAC arrangement.

May I very briefly address myself -- before I do, your Honor, I would point out that at the time the appeals were filed Carl Barnes was a creditor with two separate claims filed. On was in the amount of $400,000, constituting a contingent claim

THE COURT: That was the one with the Hartford National Bank?

MR. SUPPLE: That's correct, your Honor.

Now, since that time, on January 31, 1975, the Hartford National Bank has filed a claim as the principal creditor, which claim supersedes Carl Barnes' claim.

I wish to bring that to the attention of the Court. At the present time, Carl Barnes does have a claim filed for back salary, approximately $74,000.

Sarah E. Barnes has a claim filed in the amount of approximately $74,000, on obligations represented by notes.

THE COURT: Has either of those latter claims

been recognized by the Trustee, as being legitimate and valid claims?

MR. SUPPLE: Your Honor, both of the claims were allowed for the purpose of voting on the plan. Other than that, they have not been examined or past upon by a Court.

THE COURT: All right. When will that be done? When will we know whether or not those two are valid claims, or whether they are just fictitious claims, set up for the purpose of establishing a base, so to speak, for voting purposes?

MR. SUPPLE: Your Honor, I'm afraid I cannot answer the Court's question. Perhaps Mr. Brownstein might be able to enlighten us.

THE COURT: When we get to that, he can file that one, and answer that a little later.

All right, you proceed.

MR. SUPPLE: Your Honor, before I am finished with Mr. Barnes and his position, your Honor, I also point out that one of the issues raised in this appeal was the question of whether or not the plan of arrangement had in fact included Carl Barnes' contingent claims.

Now, as a matter of fact, a proceeding has been subsequently brought in the Bankruptcy Court.

As a result of that proceeding, the appellant satisified the contingent claim, which was in fact included in the plan or arrangement with his order, and an order substantially to that effect has been entered in the proceeding below.

THE COURT: This contingent claim was classified in which of the three groups?

MR. SUPPLE: Class II.

THE COURT: And why was it in Class II? It exceeded $20,000; is that the reason?

MR. SUPPLE: That's correct, your Honor.

THE COURT: But it may be that that contingent claim will never become a reality; isn't that true?

MR. SUPPLE: At this time, your Honor, there is a foreclosure proceeding pending in the Superior Court in Stamford. There is a foreclosure proceeding pending in the Supreme Court in New York, Westchester County.

THE COURT: Can that proceed to conclusion, however, until the contingent aspect of the claim has been ascertained, and it is vested, so to speak, as a valid claim?

MR. SUPPLE: It may proceed in the Bankruptcy -- sorry, in the arrangement, yes, your Honor, as a

contingent claim.

THE COURT: Can the foreclosure, however, proceed to conclusion until the contingency has been ascertained?

MR. SUPPLE: Yes, it can, your Honor. It can proceed, since they are foreclosure proceedings brought against Carl Barnes. It does not include the debtor, ALRAC.

THE COURT: My point is, if Hartford's debt is satisfied, directly or indirectly, the contingency doesn't arise; is that correct?

MR. SUPPLE: The contingency, in effect, arises, your Honor, when the debt of ALRAC is satisfied out of Barnes' property. Barnes had guaranteed notes of ALRAC, the debtor. His guarantee was secured by a mortgage. Under the guarantee, the principal creditor, Hartford National Bank, has elected to proceed against the guarantor -- at least up until January 31st, as of January 31st they filed a claim in the Bankruptcy proceeding.

THE COURT: That's my point. Is this foreclosure just a holding operation, to see what is going to happen with ALRAC and their claim for $400,000 against it? Is it just a holding action,

or are they proceeding to conclusion, to foreclose?

It may not make any difference, but I would like to have it known in the record.

MR. SUPPLE: At this point, your Honor, there has not been any further progress in the foreclosure actions, other than filing of pleadings.

Now, I do not believe that Hartford commenced those actions as a holding action. They are extremely serious when they commenced them.

I'm afraid I cannot answer your Honor's question as to what Hartford's intent may be.

THE COURT: Do they have the right to proceed under the terms of the contract?

MR. SUPPLE: Yes, they do, your Honor. They have the right to proceed.

THE COURT: Very well.

MR. SUPPLE: Your Honor, the remaining issues before the Court go to the question of whether or not there was a majority in amount of Class I creditors accepting the plan proposed by the debtor.

THE COURT: How many Class I creditors were there, and what was the total amount?

MR. SUPPLE: The total number of Class I

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creditors considered by the Court, your Honor, were 42.

THE COURT: As of what date?

MR. SUPPLE: That would have been as of December 20, 1974.

THE COURT: As of that date, how many creditors were there, and what was the vote?

MR. SUPPLE: As of that date, there were 42 considered by the Court. The vote was 13 non-acceptances, and 26 acceptances.

THE COURT: And the amount represented by the 13 was how much?

MR. SUPPLE: The amount represented by the 13 was approximately $26,000, your Honor.

THE COURT: And the amount represented by the 26?

MR. SUPPLE: The amount represented by the 26, as the Court construed it, was approximately $88,000. (1)

I'm sorry, your Honor, it was approximately $66,000. (2)

THE COURT: As of December 20th?

MR. SUPPLE: That is as of December 20th.

THE COURT: Is there some irregularity about that, that you claim?

MR. SUPPLE: Yes, your Honor. I'm sorry --

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it amounted -- the amount represented by the 26 was $47,845.

(3)

Your Honor, our contention is --

THE COURT: Excuse me. You mentioned some other figure. Is that a corrected figure now?

MR. SUPPLE: Yes, it is, your Honor.

THE COURT: State it again, please?

MR. SUPPLE: $47,845.59.

MR. BROWNSTEIN: If your Honor please, may I understand the basis of the figure that was just mentioned by Mr. Supple? I don't recall ever having heard the $48,000 figure before.

THE COURT: He said 47,845.59.

As I recall the brief, Counselor -- and it is your brief, not mine -- but, as I recall it, your claim was to the effect that on December 20th, the dollar value of those opposing was something like 25 or 26,000, as against 21,000 of those favoring. And then you claim there was some concealment of time and claims, and thereafter, there came in this excessive number, which brought it up over 30,000, against the figure of 21.

Now, that is just from recollection. But, I've only read it once, so my recollection may be faulty.

Am I wrong or right on that?

MR. SUPPLE: All right, your Honor --

THE COURT: If that is the basis of your claim?

MR. SUPPLE: The amount considered by the Court, as voting accepting, was 62,000. The amount not accepting considered by the Court was 26,142. The total amount was 88,156.

THE COURT: There is no question about the sixty-two exceeding the twenty-six, is there?

MR. SUPPLE: No, there isn't, your Honor. But we disagree very strongly with the sixty-two.

THE COURT: And on what basis?

MR. SUPPLE: The disagreement arises from these facts, your Honor. Three claims that were computed by the creditors' committee, and accepted by the Court. They were accepted for the purposes of this order -- I don't say "allowed".

THE COURT: By allowed, you mean recognized as a recognized claim?

MR. SUPPLE: That's right.

THE COURT: And "accepted" is recognized in being in a category of a claim?

MR. SUPPLE: Employed in reaching the results that the Court did reach in affirming the plan.

THE COURT: Very well.

MR. SUPPLE: Your Honor, there were three claims computed by the creditors' committee. The Edward Peters claim in the amount of $18,941.43 --

THE COURT: $18,941.43.

MR. SUPPLE: The claim of Serico, in the amount of $5,178.36 --

THE COURT: $5,178.36.

MR. SUPPLE: And the Mitsubishi claim, in the amount of $16,191.25.

THE COURT: Repeat that last one?

MR. SUPPLE: $16,191.25.

THE COURT: All right.

MR. SUPPLE: For a total of $40,311.04.

Your Honor, at the hearing on December 20th, for the purposes of examining acceptances, Mr. Krick, who was counsel for the creditors' committee, advised the Court that he was employing the register of claims of the Court, for the purposes of determining claims which were filed.

Now, your Honor, a claim by Mr. Peters, in the amount of $18,941, bearing claim number 741, was filed on December 26th -- sorry, it was filed on December 30th.

The claim of Serico was filed on December 30th.

The claim of Mitsubishi was filed on

December 30th.

There was a claim filed by -- it was a claim, I should say, delivered by Peters on December 5th, and in fact, it was returned by the Clerk, because it was incomplete.

Now, that claim was also marked as a priority claim, a priority claim for wages. Mr. Peters is the vice president in charge of marketing of ALRAC Corporation.

The Court, at the December 20th hearing, advised that it was allowing the claims filed. Now, it is our contention, your Honor, that the necessary element to voting for or against the plan of arrangement is the allowance of the claim.

THE COURT: Suppose that were done all over again; let's suppose your claim was valid, and it was done all over again. Would it be any different today? Have any of these people changed their position?

MR. SUPPLE: No, your Honor. None of the three to whom I have made reference have changed their position.

THE COURT: I just want to put something on the record. Suppose the Court saw fit that your position in this technicality were valid, and

called for a revoting on this particular issue at the present time. Would the result be any different?

MR. SUPPLE: I have no knowledge of any change of position on the part of any of the three claims to whom I make reference, your Honor.

THE COURT: All right. So if that were true, how would that particular point help you?

MR. SUPPLE: Your Honor, I think you may be asking me why is Mr. Barnes appealing?

THE COURT: Well, no. I just want to get you in perspective. If he were granted a correction on that point, that you are using as a technicality, my point is -- and if the Court were to order a new vote on that particular issue to determine its validity, to determine whether it is valid, the question is would there be any change in the voting today? And your answer is "no"?

MR. SUPPLE: Your Honor, I believe that if the true import of the plan were communicated to the creditors as a whole, I believe the creditors as a whole would not accept the plan.

THE COURT: All right. That is your claim. Do you have any basis for that?

MR. SUPPLE: Yes, your Honor. If I may, let me go to the second issue that is involved in the

Plaintiff's appeal: The question of feasibility.

Your Honor, the Class II creditors consist of short term note holders, senior convertible note holders, and trade creditors having claims in excess of $20,000.

THE COURT: The last one is very clear. Suppose you explain the first two, so I will be sure I understand it.

The senior note holders, how do you describe their relationship as an indebtedness?

MR. SUPPLE: All right, your Honor. Your Honor, in approximately 1973, if my memory serves me correctly, ALRAC required additional funds in order to meet payroll and other current expenses. It had previously incurred an indebtedness approximating two million dollars, represented by debentures under an agreement trustee by the First National City Bank. It had, over the years, been incurring obligations on short term notes. And as of January, 1974, they were in excess of a million dollars.

In order to meet current expenses, it sold notes in the amount of approximately $600,000, and induced the First National City Bank, as the Trustee of the debentures, to give a priority

position to the lenders, represented by the senior convertible notes.

In other words, the debentures were subordinated to the senior convertible notes, in order to commit ALRAC to obtain the finances that were necessary at that time.

THE COURT: These debentures were what, bonds?

MR. SUPPLE: These debentures, which are Class III creditors, are bonds, yes, your Honor.

THE COURT: How much in the way of debentures existed at that time, or were outstanding?

MR. SUPPLE: Approximately 2,215,000 -- on the debenture holders at the present time, Class III credit holders, 2,215,000.

THE COURT: What are the terms of those outstanding debentures at the present time? What rights do they have?

MR. SUPPLE: Your Honor, they are to be paid out under the present circumstances, in the absence of the plan, I believe in 1984.

THE COURT: Paid over a period of time?

MR. SUPPLE: Yes, your Honor.

THE COURT: At which time they will be completely paid off in '84?

MR. SUPPLE: In 1984.

THE COURT: And when is the period of commencement of payment?

MR. SUPPLE: Going on recollection, your Honor --

THE COURT: Are there any due now?

MR. SUPPLE: There is interest due at the present time, past due. And I don't believe that there are any principal amounts due on those notes at the present time.

THE COURT: I mean, interest is not paid, is there? When interest is not paid, are there any conditions for --

MR. SUPPLE: For acceleration?

THE COURT: Acceleration?

MR. SUPPLE: Yes, your Honor.

THE COURT: What do they provide?

MR. SUPPLE: They provide for acceleration, at the option of the debenture holders, the Trustee, and ultimately --

THE COURT: They become demand paper?

MR. SUPPLE: It becomes demand paper, yes, your Honor.

THE COURT: Do they have any voting rights in the stock?

MR. SUPPLE: They have no voting rights in

the stock. They do have conversion privileges.

THE COURT: If they mature, they have conversion privileges; is that it?

MR. SUPPLE: Your Honor, I believe the conversion privileges, I believe they have the matter of election during the term of the debentures.

THE COURT: All right. Is all of this spelled out in your brief?

MR. SUPPLE: Yes, it is, your Honor.

I want to make one point, your Honor: The Court notes that Judge --

THE COURT: The final question that you didn't answer: What are these note holders -- not the short term, but the subordinate note holders -- what are those?

MR. SUPPLE: The subordinate debentures?

THE COURT: Debentures?

MR. SUPPLE: They are the Class III creditors, your Honor.

THE COURT: In other words, I am speaking of Class II.

MR. SUPPLE: Class II, they are senior convertible notes. Judge Seidman notes those to be in the amount of $682,973.

THE COURT: What is the amount again?

MR. SUPPLE: 682,973.

Judge Seidman notes the short term note holders, included in Class II, to be in the amount of 1,277,224.

Now, the register of claims, your Honor, reflects trade creditors, or non-note holder creditors, with claims in excess of $20,000, and therefore in Class II, and the total amount is $836,182.

And, your Honor, when I use that figure, of that total, I have used a figure of $320,000 for the Hartford National Bank claim, not the $400,000 amount included in the Carl Barnes contingent claim. And the reason I used that 320,000, rather than the $400,000, is to avoid argument here. It is my understanding that the counsel for the debtor contends that the amount, the principal amount of the obligation, is $300,000; that the accrued interest to August 20th would be in the amount of approximately $20,000. And it is only the principal and the accrued interest to the date of filing which would be permitted as a claim.

And it is for that reason that I used the figure of $320,000. The total of those claims, however, is $836,182.

2

When you total $836,182 and $1,277,224 and $682,973, you come up with a total of $2,796,379. The plan allocates to Class II creditors an aggregate total of $2,500,000 to be paid out over a period of years.

The plan is not feasible, your Honor. They cannot pay -- on the face of it, they cannot pay the Class II creditors.

Incidentally, your Honor, I --

THE COURT: Apparently Judge Seidman thought they could.

MR. SUPPLE: Yes, your Honor, but I must admit that it is a matter of mathematics. The Judge is clearly erroneous. And this is a mathematical situation.

THE COURT: Very well.

MR. SUPPLE: Your Honor, may I point out to the Court those claims I'm referring to, which are listed on the register, the Court's register, as of January 15, 1975.

On January 31st, claim number 286, the claim by Chevron Chemical Company, in the amount of $72,500. Claim number 270, the claim by Wolfe & Wolfe, an attorney, in the amount of $53,900.

I might note that Harvey Wolfe is a member of

that firm, and the chief executive -- I'm sorry, the Executive Vice President.

Claim number 113, by Arthur Anderson.

THE COURT: Who put him in, do you know, the Executive Vice President, Mr. Wolfe? Your client put him in?

MR. SUPPLE: My client certainly brought him into the operation, and Mr. Wolfe came into the corporation at the time of its formation.

THE COURT: He was his friend, and he was a participant?

MR. SUPPLE: Yes, and counsel.

THE COURT: And advisor?

MR. SUPPLE: Yes, your Honor.

THE COURT: All right.

MR. SUPPLE: Arthur Anderson, 113 is the number of the claim, and it amounts to $48,800.

Claim number --

THE COURT: Arthur Anderson, that claim is what?

MR. SUPPLE: $48,800.

THE COURT: The claim number?

MR. SUPPLE: 113.

THE COURT: 113? And Arthur Anderson is a financial advisor?

MR. SUPPLE: A certified C.P.A., your Honor. They are accountants.

THE COURT: They analyze businesses and recommend methods of financing, and evaluate better business methods, to keep business on their feet, and producing? Is that one of their major functions?

MR. SUPPLE: No, I don't believe so, your Honor. I believe they are strictly --

THE COURT: Accountants?

MR. SUPPLE: In accounting, or there is what is called the Big 8.

They are a nationally known accounting firm, and they were the auditors, as I understand it, for the ALRAC Corporation.

Your Honor, claim number 169, James Geerdes --

THE COURT: James who?

MR. SUPPLE: Geerdes -- G-e-e-r-d-e-s, in the amount of $172,261.

Claim number 28, Sarah Barnes, $74,570.

Claim number 29 --

THE COURT: What was her contribution, Sarah Barnes? The wife of Carl? But was she a participant in the corporate business?

MR. SUPPLE: She was a participant in the

business to the extent of financing it for payroll purposes, and other emergency situations. And these are actual monies paid out, your Honor, and they are represented by notes. This is a legitimate claim, your Honor.

THE COURT: All right.

MR. SUPPLE: Carl Barnes, claim number 29. That is a claim in the amount of $400,000. It represented a contingent claim based on the Hartford National Bank obligation. As I indicate to your Honor, in reaching the figure I have, I have only used 320,000 of that, rather than $400,000.

THE COURT: Why did you do that? You didn't make it quite clear.

MR. SUPPLE: The principal amount of the note signed by ALRAC, delivered to Hartford National Bank, is in the amount of $300,000. The accrued interest to August 12th, which was the date of the filing of the original petition in this matter, is in the amount of $20,000.

I understand it is the contention of the debtor that the only amount of that claim which would be allowed would be the principal, plus the interest accrued to the time of the filing of the petition, initiating the proceedings. So I used that figure

of $320,000.

THE COURT: Very well. That is clear enough.

MR. SUPPLE: The claim of Carl Barnes, number 30, claim number 30, $72,900. That is a salary claim.

THE COURT: How much was his salary? $10,000 a month, or $10,000 a year? What was it?

MR. SUPPLE: Your Honor, I think Mr. Barnes may be able to supply that answer. I do not know, to be truthful.

Mr. Barnes is here.

THE COURT: I am just trying to get a picture. Why don't you inquire of him privately, and advise me?

MR. SUPPLE: Thank you, your Honor.

Your Honor, I understand that Mr. Barnes' salary was $50,000 a year. But, he didnot receive that salary in the past two years.

THE COURT: All right.

MR. SUPPLE: Claim number 18, BASF, $21,311.

MR. BROWNSTEIN: If your Honor pleases, I feel constrained to inquire at this point, what is this all about? This is the first time I have had a recitation of the claims being made. They do not appear in my brother's brief.

I don't understand where we are going, if anywhere, on this. And I simply wish to inquire.

MR. SUPPLE: Your Honor, these all appear in the register claims, which is an exhibit, and was brought before the Court, the Court below.

MR. BROWNSTEIN: Which are unchallenged in this matter, as I understand it, as of the moment.

MR. SUPPLE: I am not challenging them. I am not challenging them.

THE COURT: That is the question to make clear. What is your offer of proof on these items, Counselor?

MR. SUPPLE: Your Honor, it is an exhibit before the Court on appeal.

THE COURT: And what about it? Suppose it is?

MR. SUPPLE: Your Honor, those are claims which fall into Class II.

THE COURT: Right.

MR. SUPPLE: Now, when you add these claims to the short term notes, and to the senior convertible notes, you come up with a total of $2,796,000, which is in excess of the amount that has been allocated by the plan for payment of Class II creditors. The total allocated to them being $2,500,000. The plan is not feasible on

its face.

THE COURT: All right. That is the purpose of your offer of proof?

MR. SUPPLE: Yes, it is, your Honor.

THE COURT: All right.

MR. SUPPLE: Your Honor, I go to the last point. The plan proposes that 750,000 shares of ALRAC stock be issued to Class II creditors, and 750,000 shares of ALRAC stock be issued to Class III creditors. And this was contained in the plan at the time it was submitted to the creditors, and at the time of their vote on the plan on December 20, 1974.

Between December 20th of 1974 and December 26th, the Court received a letter from the Securities Exchange Commission, which in essence objected to the issuance of the stock. It did not take a position on Carl Barnes' motion to transfer to Chapter X, but it was very critical of the possibility of this stock being issued.

The debtor proposed that a legend be placed upon the stock, restricting the sale of the stock, and further providing that the debtor would attempt to register the stock over the next two years.

That proposal was adopted by the Court on

December 26th. That proposal was never submitted to the creditors.

Your Honor, Mr. Grace was called by the debtor, and testified as a financial expert, and testified that the imprinting of that legend upon the stock would reduce its value by at least 50 percent. Your Honor, that is a material change.

THE COURT: Its real value was how much, without the legend?

MR. SUPPLE: Your Honor, the values given by Mr. Grace were several. I think they boiled down to approximately 12 cents a share at that time, and they would be reduced to approximately 6 cents a share.

There were other figures used, 20 cents a share used at one point. But, essentially the testimony is very clear that imprinting this legend on the stock is going to substantially reduce its value, at least by 50 percent.

Your Honor, under such circumstances, the Bankruptcy Court had no choice; it was constrained to submit that alteration, that material alteration of the plan to the creditors. It did not do so.

It is not a question of how material -- if the alteration is material -- the altered plan

must be submitted to the creditors. Such was not done.

THE COURT: Was that issue raised before Judge Seidman?

MR. SUPPLE: Yes, your Honor, it was.

THE COURT: What did he say?

MR. SUPPLE: Your Honor, I believe the quote is in the brief, but Judge Seidman found it was not material, and I believe he also told Mr. Edmondson, who represented Mr. Barnes, that "there is an additional point for your appeal, if you want one" -- something to that effect, your Honor. That is not a direct quote, but that this is a grounds for an appeal. It is in the transcript, and I can refer the Court to it.

THE COURT: In other words, he felt the practicalities of the situation overwhelmed the technicalities?

MR. SUPPLE: I would assume -- I would accept your Honor's interpretation of it, your Honor, yes.

THE COURT: I am just trying to observe the response to what you just said.

MR. SUPPLE: All right. Your Honor, may I briefly go to the question of the Chapter X. The

petition to transfer to Chapter X.

The nub of the appellants' contention here is that what is involved is not a simple composition of the debtors-creditors. As is obvious from the plan, the equity structure of the corporation is being substantially affected. The stockholders' equities will be reduced in excess of 50 percent.

I might note at this point, your Honor, that Carl Barnes owns approximately 209,000 shares of ALRAC stock. He is the largest single stockholder.

At the present time, there are approximately 1,016,000 shares, I believe, outstanding, your Honor. The interest of the present stockholders, at the interest of Carl Barnes will be reduced in excess of 2 percent, if the 1,500,000 shares are issued.

This was found necessary by the debtor in negotiations with the creditors' committee. It does affect the equities of the corporation. It does not -- the arrangement does not confine itself to merely unsecured creditors.

THE COURT: At the time the computation was made for the issuance of stock, how valuable was the stock computed? At what unit value?

MR. SUPPLE: Your Honor, I believe that Mr.

Grace identified the last sale that he was involved with -- I think it was approximately two weeks prior to December 26th, when he was testifying. And I think it figures to 12 cents a share.

THE COURT: And this stock was issued under this arrangement, so called, to offset the accrued interest that occurred on these debentures?

MR. SUPPLE: The stock, as I understand it, your Honor, it was agreed this stock would be issued, in a sense as compensation for the waiver of interest by the short term note holders, the senior note holders, and the debenture holders? They are, in effect, waiving interest after August 20th, 1974, which is the date of the filing of the Chapter XI petition.

THE COURT: And if that hadn't been effected, these debenture holders could have demanded their money immediately under the terms of their obligation, right?

MR. SUPPLE: Yes, they could have.

THE COURT: They could have forced an absolute bankruptcy? The sale of the assets; isn't that true?

MR. SUPPLE: Your Honor, they could not necessarily force an absolute bankruptcy.

THE COURT: Why not?

MR. SUPPLE: At that time, pre-August 12 of 1974, ALRAC was engaged in a negotiation with Chevron. Under the proposed agreement with Chevron, Chevron would have paid in excess of $8,000,000.

THE COURT: Over a period of 15 years?

MR. SUPPLE: Over a period of years -- would have paid $450,000 on the consumation of that agreement.

In addition to which, your Honor, at that point ALRAC had assets, had 16 patents -- some 12 patent applications -- on the schedule filed with the debtors' petition, and the debtor notes that the true value of its patents may be in excess of a million dollars.

THE COURT: That is the man who holds the patent that says that?

MR. SUPPLE: That was the man, as of the date of the filing of the petition, who had already licensed these patents out.

THE COURT: You had no independent appraisal of those patents, did you?

MR. SUPPLE: No, your Honor. As a matter of fact, as I understand it, the value, the cost to

effect the filing of the patent is approximately $100,000, your Honor.

THE COURT: How much?

MR. SUPPLE: $100,000. But the notation is that the value of the patent could exceed $8,000,000. And this is the debtor --

THE COURT: It could exceed $800,000,000, if you want to estimate it at that.

MR. SUPPLE: Your Honor, I have been informed that the market for this product probably exceeds a billion dollars.

THE COURT: But knowing the cold rules of the business world, whoever produces that -- those are just estimates.

MR. SUPPLE: They go beyond estimates, because in this particular case, you have an actual offer.

THE COURT: The Chevron offer?

MR. SUPPLE: Yes, the Chevron offer.

So, it is approximately a billion -- that is not a purely theoretical figure; that is substantiated by the contract.

THE COURT: What was the date of the Chevron transaction?

MR. SUPPLE: Your Honor, the Chevron transaction involved in the arrangement itself is

August 14th.

THE COURT: That was two days after the filing?

MR. SUPPLE: Your Honor, that was actually two days after the filing of an involuntary petition under the Chapters up to VII.

THE COURT: Was it executed after the filing?

MR. SUPPLE: It was executed before the filing of the Chapter XII, and after the filing of the involuntary.

THE COURT: When was it executed?

MR. SUPPLE: It bears the date of August 14th. To the best of my knowledge, your Honor, that was the date.

THE COURT: But you filed on the 12th, an involuntary. So, it was two days after the filing?

MR. SUPPLE: Yes, your Honor.

THE COURT: Was it executed with the approval of the Bankruptcy Court?

MR. SUPPLE: It was not executed with the approval of the Bankruptcy Court, but the Bankruptcy Court subsequently authorized the debtor to affirm and adopt those contracts.

THE COURT: Didn't your client, Carl Barnes,

help to negotiate that agreement with Chevron?

MR. SUPPLE: Carl Barnes was involved in the negotiation with Chevron which led to an agreement that was dated April 24th of 1974.

THE COURT: So he'd be negotiating over a period of several months?

MR. SUPPLE: Yes, he had, your Honor.

THE COURT: And when it was finally signed, didn't he approve of the transaction, after consulting with counsel?

MR. SUPPLE: No, he did not, your Honor.

THE COURT: What is this Hale & Dorr conference that he had, that is referred to in the brief? The Hale & Dorr firm of Boston?

MR. SUPPLE: Yes, your Honor. Mr. Hestnes of the Hale & Dorr firm, or counsel for ALRAC Corporation, on April 24th Mr. Barnes objected to the consumation of the agreement with Chevron, the execution of the agreement with Chevron, and he was advised by Mr. Hestnes and by Mr. Wolfe that as the chief executive officer of the corporation, that he had to sign the agreement, since it was the opinion of all of his fellow Board members that the agreement should be adopted.

THE COURT: Suppose he refused? Couldn't the

Executive Vice President handle the transaction?

MR. SUPPLE: Yes, they could have. In my opinion, they could have, your Honor.

THE COURT: So he went ahead, and by his signature, and by his conduct, after advice of his counsel, executed the agreement?

MR. SUPPLE: That's correct, your Honor.

THE COURT: Doesn't that kind of estop him now from standing up and saying "A plague on your house now; what has been accomplished I am opposed to. I don't like the way the thing is shaping up."

MR. SUPPLE: No, your Honor. I don't think so. The April 24th agreements were in fact subject to approval by the creditors, and subject to approval by the stockholders, to be called at a meeting to be duly called.

THE COURT: The directors had approved it, though?

MR. SUPPLE: Yes, your Honor.

THE COURT: How many directors were there?

MR. SUPPLE: At that point, your Honor, I believe there were five.

THE COURT: Who were they?

MR. SUPPLE: The directors were Carl Barnes, William Ferguson, and a gentleman named Pellett,

I believe, and Mr. Anderson, Oscar Anderson, and I believe Harvey Wolfe.

THE COURT: What was the vote of the Board of Directors?

MR. SUPPLE: On April 24th?

THE COURT: Right.

MR. SUPPLE: I have not seen the minutes of that particular meeting, your Honor. But it is my understanding that all directors, except for Mr. Barnes, voted in favor of it.

THE COURT: Was it four to one?

MR. SUPPLE: Four to one.

THE COURT: Does the minute book reveal that?

MR. SUPPLE: Your Honor, the minute book, I believe, indicates that it was unanimous. There was testimony in the proceedings before Judge Seidman on this point. I believe that Judge Seidman adopted, as a finding, the position that Mr. Barnes opposed the April 24th Chevron agreement.

THE COURT: Who was the secretary of the corporation on the Board of Directors of these five?

MR. SUPPLE: At that time, Harvey Wolfe was the secretary.

THE COURT: And Wolfe was also the Executive Vice President?

MR. SUPPLE: He was not the Executive Vice President as of April, '74.

MR. BROWNSTEIN: May I correct that, if your Honor pleases? May the record show that Harold Hestnes, counsel in Hale & Dorr, was Secretary. Harvey Wolfe was the Vice President.

THE COURT: Was he a member of the Board of Directors?

MR. BROWNSTEIN: Who, your Honor?

THE COURT: Harvey Wolfe.

MR. BROWNSTEIN: Yes.

THE COURT: And Hestnes, was he a member of the Board of Directors?

MR. BROWNSTEIN: No, your Honor, he was Secretary.

THE COURT: Of the corporation?

MR. BROWNSTEIN: Yes. The resolution said it was unanimous, so that the record may be corrected in front of your Honor today.

MR. SUPPLE: Thank you, Mr. Brownstein.

THE COURT: Can counsel agree on that?

MR. SUPPLE: Yes, your Honor. I have just been informed that Mr. Wolfe was the Assistant Secretary. And it was understood that it was his job to prepare the minutes.

THE COURT: Do you know who prepared the minutes, Wolfe or Hestnes?

MR. SUPPLE: I believe that the minutes were prepared by Harvey Wolfe. And I think there is testimony in the record to indicate that.

MR. BROWNSTEIN: Once again, if your Honor pleases, I am constrained to object and say that Attorney Hestnes, who was the Secretary, prepared it.

THE COURT: At the meeting?

MR. BROWNSTEIN: That's correct, your Honor. There were seven members of the Board, and I can state the names for the record, if it would be helpful.

THE COURT: Well, I have five. There are two more that I probably should have.

MR. BROWNSTEIN: Mr. Lipton is one, and David Wakeman was the other.

MR. SUPPLE: Your H nor, may I ask Mr. Brownstein if he can advise us when Mr. Wakeman became a member of the Board of Directors? We are speaking of April, '74.

MR. BROWNSTEIN: I don't have any independent information on that. I asked Mr. Wolfe; he doesn't recall.

THE COURT: All right.

MR. BROWNSTEIN: And I fail to see the materiality or relevancy of it at this point in time, on an appeal.

THE COURT: Well, the only point the Court is interested in, he is responding to it, and that is the question was it a unanimous vote? And it would appear now that it was, according to your own statement. Whether there were five or seven of them, it was unanimous.

MR. BROWNSTEIN: Correct, your Honor. And that was all in the record before Judge Seidman.

THE COURT: So the next question that follows, if it were unanimous, Counselor, how can your client, Mr. Barnes, come in now, at a time when he has doubts about his previous conduct or action in voting for it, and raise the issue that it might not be advantageous because the assets, more specifically, the patents, are being conveyed, in substantial part, at least -- except for certain exceptions in foreign patents, licensing rights -- how can he come in now after having been a participant in the voting of this action, and why isn't he estopped from raising that issue at this time?

I want to learn from you, your position.

MR. SUPPLE: Your Honor, I think the record will clearly indicate that it was not in fact unanimous; that the minutes of the meeting, which were prepared, were delivered to Chevron. And, in fact, were never returned by Chevron to Barnes, who was then the executive officer, chief executive officer of the corporation -- although he frequently asked for them.

This testimony, this point, was covered by testimony in the Court below, as I indicated to you, your Honor. Judge Seidman, in his findings, indicates that Carl Barnes opposed the Chevron deal.

And impliedly, your Honor, I think Judge Seidman found that he had not, in fact, had not voted for it at the meeting leading to the execution of these agreements on April 24th.

THE COURT: So your previous statement that it was unanimous is erroneous; is that correct?

MR. SUPPLE: My statement was, your Honor, that the minutes, as they were typed, indicated a unanimous vote. But that there was not a unanimous vote: Carl Barnes dissented most vigorously.

THE COURT: Do we have anything to point to, to verify that?

MR. SUPPLE: I'm sorry, your Honor?

THE COURT: What is there to demonstrate that and prove that? You say that is so; I know you mean it, and you say it in good faith. But, the question is, is there some objective record that will verify it?

MR. SUPPLE: Yes, your Honor, there is substantial testimony on that point in the record, which is part of the record on appeal.

THE COURT: All right.

MR. SUPPLE: It is in the transcript.

THE COURT: All right, testimony in the record.

MR. BROWNSTEIN: Only by Dr. Barnes.

THE COURT: Very well. The record will speak for itself.

MR. SUPPLE: Your Honor, on the point of the Chapter X petition, I would also point out --

THE COURT: Suppose Chapter X were used, instead of XI; couldn't the same arrangement be approved under Chapter X, as had been accomplished under Chapter XI, or even broader -- couldn't the same ultimate result have been accomplished?

MR. SUPPLE: It could very well be the ultimate result, your Honor, yes. Substantially.

THE COURT: How then are you going to be bettered by your claim that the Bankruptcy Referee, or the Judge as it is now called -- should have used Chapter X rather than XI?

MR. SUPPLE: Your Honor, may I go to answer your question -- I am attempting to answer your question, your Honor -- may I go back to the question I asked, is the Court asking me why is Mr. Barnes appealing? And I would like to state to you, and I think it will answer your question, why Mr. Barnes is appealing.

Your Honor, it is his sincere belief that the sale to Chevron, which is substantially the plan of arrangement --

THE COURT: That is back in April?

MR. SUPPLE: Back in April, and in August, and in December.

THE COURT: That is when it was ratified.

MR. SUPPLE: Yes, your Honor. But, this sale to Chevron is going to strip ALRAC of all its commercial property. The plan of arrangement and the sale to Chevron -- in fact, it will leave ALRAC in a financial position where it will not be

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able to operate, where it will not be able to develop any new products. It has no rights under the sale to Chevron to develop, manufacture or sell woven Nylon-4. And that is the crux of the problem. That is the only product that is commercially developed at this time.

ALRAC has been left in the position where it will not have the finances to employ and maintain the necessary plant or the equipment to remain a viable company.

THE COURT: Well, the question arises too, doesn't it, Counselor, was this arrangement done for the purpose of depriving ALRAC of the benefits of its patents, or was it to save it from complete loss and destruction of the corporate entity?

MR. SUPPLE: Your Honor, it is our contention it was done for the purposes of depriving ALRAC of its patents. And in fact, there is absolutely no necessity for denying to ALRAC the right to manufacture and sell Nylon-4, except to provide Chevron with an absolute monopoly. On this product, which is going to constitute a billion dollar market, it grants to Chevron a monopoly.

THE COURT: Suppose Chevron pulls itself out of the picture complete; where is ALRAC? With no

money, and in bankruptcy? Where are they?

MR. SUPPLE: If Chevron were out of the picture completely, your Honor, there is no doubt in my mind -- and this is based on my knowledge of conversations that have been had with other interested parties -- there would be somebody in place of Chevron.

THE COURT: At least now, you got the argument to a prospective purchaser that you didn't have before, before Chevron came into the picture, and you can say Chevron saw enough value in this project to take a chance and a risk to agree to pay over a period of 15 years, $8,000,000 for it. So it must have some intrinsic value.

And of course, your position is it was worth much more than $8,000,000.

Now, whether you can get somebody to finance that or not is another issue. And if you don't get somebody to finance it, where are you?

MR. SUPPLE: Without income, your Honor.

THE COURT: Without income, you'd be --

MR. SUPPLE: We would have assets, your Honor.

THE COURT: You'd have assets to talk about?

MR. SUPPLE: Yes, your Honor. We would have assets.

THE COURT: And the asset would be the potential of the patent?

MR. SUPPLE: That's correct, your Honor.

THE COURT: What is going to happen to these fellows with the debentures? They are not going to sit back on their hands and not claim those patents and ask that they be sold; they are going to ask that they be sold and negotiated, and the proceeds turned over to them, aren't they? They aren't going to sit back and wipe the slate clean?

MR. SUPPLE: Your Honor, I believe that the debenture holders might very well sit back, because they are subordinated to the note holders.

THE COURT: All right. What are the note holders going to do?

MR. SUPPLE: Your Honor, the note holders might move in and put ALRAC into a bankruptcy, into a liquidation.

THE COURT: What would happen then? Wouldn't these patents be sold, as the only existing assets of the corporation?

MR. SUPPLE: Your Honor, at the present time -- that could happen, your Honor -- not at the present time. May I say this: If at the present time ALRAC was going into a liquidation, it would

not have merely patents; it would have income.

THE COURT: Income from what?

MR. SUPPLE: Under the Chevron license agreement.

THE COURT: But that is when you are saying "I am going to take what I got, and then we will work from there." But, if you wipe out Chevron, if you say that whole deal was a fraudulent, dishonest, corrupt, improper transaction -- if you wipe that out completely, then you are with no money, subject to bankruptcy, subject to the assets being sold to strangers, and nothing to show for it.

MR. SUPPLE: Your Honor, it is the appellants' sincere belief that if Chevron were out of this picture that there would be no problem in obtaining a replacement for Chevron, who would deal equitably with ALRAC, who would grant ALRAC a license back, or a so called shop right -- trade right, I should say -- to manufacture Nylon-4 fiber, to market it in this country. And thereby providing ALRAC with a viable operating business, and an income independent of the royalties under the assignment or license agreement.

THE COURT: Did you have such an offer in

April of '74? Were there any competitors with Chevron at that time, that were to meet their terms?

MR. SUPPLE: There was no real competitor at that time to meet those terms, no, your Honor.

THE COURT: But now it seems that somebody else is interested? It is always easy, like a Monday morning quarterback, and negotiate from a base of what you have got; isn't that true?

MR. SUPPLE: Yes, your Honor.

THE COURT: Negotiate upwards?

MR. SUPPLE: Yes, your Honor.

THE COURT: Now, the question is, is it equitable to do that? That is one aspect of the case.

All right, I am just trying to get your thinking. My questions don't disclose how I feel about this -- don't draw any conclusions.

The point is that I am trying to get your thinking about this, and some of my questions may be grossly adverse to your position. But, I am trying to draw you out, to see what I can learn from what is not in the brief.

MR. SUPPLE: Your Honor, would it be equitable? That is the question you would ask. Your Honor,

it would be equitable. It would have been equitable to have permitted ALRAC the right to manufacture and sell Nylon-4 fiber.

It would not have mitigated against Chevron's development of this product. In fact, it might very well have saved Chevron.

THE COURT: Now, you are saying we could have made a better deal in negotiating it; we should have reserved the fiber aspect for ourselves, and negotiated a different deal than what was negotiated, right?

MR. SUPPLE: Correct, your Honor.

THE COURT: All right.

MR. SUPPLE: Your Honor, may I retire at this point and turn the podium over to the debtor?

THE COURT: All right. We will see what your adversary has to offer.

MR. BROWNSTEIN: May I ask for a five minute recess before I go forward?

THE COURT: We would normally recess at 11:30 anyway. We will take our usual morning recess at this time.

Short recess.

(Recess.)

THE COURT: You may proceed, Counselor.

MR. BROWNSTEIN: If your Honor please, I would first like to inquire of the Court whether or not your Honor has received a sur-reply brief that I filed here several days ago, and I sent it to the Clerk's office, together with the written motion, requesting permission to have Mr. Miller appear with me today? If that has not reached your Honor's attention --

THE COURT: I don't think I have seen it, but you may proceed nevertheless. I will read it.

MR. BROWNSTEIN: Yes, your Honor. I just wanted to point out that there was a brief filed.

THE COURT: All right.

MR. BROWNSTEIN: I will try in my oral argument to answer some of the questions that your Honor raised, and to refute some of the arguments that Mr. Supple has raised.

I think the question asked by your Honor was whether or not the claim of Dr. Barnes had been allowed, for all practical purposes. I think the short answer to that is to say to your Honor that for bankruptcy purposes, in a Chapter XI proceeding, a claim, unless objected to, is allowed.

And, for the purposes of the first meeting of creditors, at which time the Court makes the

determination as to whether or not allowed claims have voted for or against a plan, unless objection has been raised to it, it has been allowed. That is the short answer to it.

There is a longer answer to it, and that is whether or not that claim or other claims that have been filed in the proceedings will be allowed before the proceedings have been fully terminated with.

Judge Seidman has retained, by virtue of the confirmed plan, the right to hear any objections which we may subsequently raise with respect to certain of the claims that have been filed and allowed for voting purposes, to-date.

I can tell your Honor that there are three or four claims in that category -- not necessarily Dr. Barnes' claim -- that will be set down for hearing.

Insofar as the contingent portion of Dr. Barnes' claim is concerned --

THE COURT: Excuse me, how much is the amount of those claims that have been objected to, according to the present record?

MR. BROWNSTEIN: I cannot tell your Honor what the claims are, because I do not recall

the amounts. One of them involves a John Fisk, who is claiming a finder's fee in this matter, who has filed a claim of a very staggering amount.

THE COURT: A finder's fee for what?

MR. BROWNSTEIN: He was engaged by the corporation, by ALRAC, for the purpose of finding a company that would be interested in the licensing agreement. And he in fact put together the company and the Chevron Research Company. He has asked for some astronomical sum in this connection.

THE COURT: How much?

MR. BROWNSTEIN: I think it goes well beyond a million dollars, as I recall. That claim is presently -- we are trying to negotiate an adjustment of the claim. If unsuccessful, that matter will be set down for hearing.

The second claim was filed by a Mr. Geerdes, who had been the principal officer of the corporation for a period of time. And at the time that his services were terminated, I believe he had a right to continue to obtain salary from the company for some extended period of time.

That, too, is a substantial claim, probably going to $200,000 or $300,000. That claim we intend to contest down the line.

Your Honor asked the question as to whether or not the Hartford National Bank foreclosure was simply a holding action. I think the short answer to that is no, it is not. I was told by counsel for Hartford National Bank the other day that they are proceeding with the foreclosure aspect of that action. I think they are in dead earnest insofar as this is concerned.

THE COURT: Are there sufficient assets to satisfy their claim?

MR. BROWNSTEIN: I am told that the real estate owned by Dr. Barnes in Connecticut and New York State is very substantial, and that they believe that they could satisfy themselves from the foreclosure action.

Now, getting down to the question of the various Class I claims, and whether or not the requisite number in dollar and amount did approve the plan: The method by which the creditors' committee -- or the method by which the debtor obtained approvals and consent of the plan, was by utilizing the services of the creditors' committee. That creditors' committee, if I may spend a moment of the Court's time, was constituted by virtue of a directive given to me by Judge

Seidman very early in the proceedings.

THE COURT: Written?

MR. BROWNSTEIN: No, oral. What he stated to me --

THE COURT: And in what stage in the proceedings?

MR. BROWNSTEIN: Well, what happened was this, if your Honor pleases: The involuntary petition was filed on August 12th. I converted that into a Chapter XI proceeding on August 20th. A hearing was scheduled in Bridgeport, supposedly to be heard by Judge Trevethan, but because he was about to go on vacation, the matter was referred by Judge Trevethan back to Judge Zampano, who re-referred the matter to both Bankruptcy judges. And the matter was set down for a day certain, sometime late in August, as I recall it. And Judge Seidman very kindly consented to sit in Bridgeport, because the notices were out, and to hear the proceeding.

The proceedings then heard before him were as to the ratification and confirmation of the three agreements that had been entered into by Chevron and ALRAC, as of August 14th of that year.

THE COURT: That's when they were executed?

MR. BROWNSTEIN: They were executed on August 14th.

I want to touch on a point that your Honor asked before. The involuntary was filed on August 12th. Service, however, had not been made upon the corporation until sometime subsequent to the execution of the contract with Chevron. We were unaware that Dr. and Mrs. Barnes, and one other creditor, had joined together and filed the involuntary at the time that the Chevron transaction took place.

THE COURT: What was the basis of their filing an involuntary?

MR. BROWNSTEIN: Well, to be absolutely frank with you it was a farce.

THE COURT: Say that again?

MR. BROWNSTEIN: It was farcical, that Dr. Barnes, who was the largest stockholder in the corporation, should seek to adjudicate it a bankrupt. And he filed the involuntary, asking for adjudication.

THE COURT: Do you know the reason for it?

MR. BROWNSTEIN: You mean what the active bankruptcy was?

THE COURT: The amount in the -- is the amount in the record?

MR. BROWNSTEIN: It is in, but at the moment,

I don't recall what he used as the act of bankruptcy.

If your Honor pleases, if I may consult with Mr. Wolfe a moment, he may recall.

THE COURT: If you will, please.

MR. BROWNSTEIN: It was fascinating -- the reason for the filing of the involuntary and the alleged act was within the four months next preceding the filing of this proceeding; said ALRAC committed an act of bankruptcy in that, a), on or about April 24, 1974, ALRAC Corporation, at a time when it was insolvent, made a preferential transfer to Chevron Research Company, a Delaware Corporation, having its principal place of business in San Francisco, California, by assigning to the latter all patent rights owned by the former, at a time when it was insolvent, which patent rights represented at that time substantially all of the valuable assets of said ALRAC Corporation.

That was the transaction that Dr. Barnes himself, as President, had signed, and now utilized as the act of bankruptcy.

Secondly, that on or about May 23rd, 1974, the said ALRAC Corporation offered to make an assignment for the benefit of its creditors at a

time when it was insolvent. That just was inaccurate.

And, thirdly, that on or about July 1, 1974, said ALRAC Corporation made a preferential transfer, in that it transferred monies belonging to it in the sum of approximately $1,500, to Colonial Insurance Agency of Stamford, Connecticut, which transfer was made on or about July 1, 1974, and at a time when the said ALRAC Corporation was insolvent.

And the effect of such transfer was to enable the said Colonial Insurance Agency, Incorporated, to obtain a greater percentage of its debt than would be attained by creditors of the same class.

THE COURT: Who was the attorney who filed that in his behalf?

MR. BROWNSTEIN: Daniel B. Lewis, an attorney from Stamford, Connecticut, who appeared at the first meeting of creditors in this proceeding before Judge Seidman at Bridgeport, with Mr. Supple and an attorney by the name of Patrick Joyce.

There have been six attorneys representing Dr. Barnes in this matter, subsequent to the three who appeared initially. We have the law firm of Evans & Evans -- that was Robert Evans and Louis

Evans, who both conducted the proceeding before Judge Seidman. And the final attorney was Attorney Robert Bell, who is counsel of record in these proceedings today.

MR. SUPPLE: Excuse me, your Honor. Excuse me, Mr. Brownstein. I think you will find that I did not appear in Bridgeport.

MR. BROWNSTEIN: Was that in Hartford?

MR. SUPPLE: Yes.

MR. BROWNSTEIN: I stand corrected then.

THE COURT: All right. What happened then, after the execution of this agreement on August 14th, by way of approval of the Bankruptcy Court?

MR. BROWNSTEIN: Well, what happened then was we had this first hearing before Judge Seidman, and Mr. Lewis and Mr. Joyce said that they had not received notice in time so that they could prepare for it. And there was quite a ruckus in the courtroom about it.

There were questions raised about denial of due process, because of lack of notice, and what have you -- accusations were made by them to the effect that Judge Trevethan's staff, clerical staff, had refused to give them access to the files so that they could have photo copies made.

The net effect of all of this was that the hearings were continued, until I believe it was September 6th, before Judge Seidman, here at Hartford.

Now, at that first meeting, late in August, because of the to-do that was being made about it, Judge Seidman then directed me, as counsel for the debtor, to notify creditors having substantial claims in this matter to meet in New York, prior to the adjourned or the continued meeting on September 6th, so that I could familiarize them with all aspects of this case. And at the same time, they could then constitute themselves into a representative creditors' committee.

THE COURT: What was your official capacity in so doing?

MR. BROWNSTEIN: I was the attorney for the debtor.

THE COURT: Which debtor?

MR. BROWNSTEIN: ALRAC Corporation.

THE COURT: Who retained you?

MR. BROWNSTEIN: The corporation had retained me.

THE COURT: Who, specifically?

MR. BROWNSTEIN: Mr. Wolfe, if your Honor please,

who was then the chief executive officer of the corporation.

THE COURT: Executive Vice-President?

MR. BROWNSTEIN: That's correct, your Honor. I was retained by him.

And there was an operating order which I prepared, which permitted the debtor in possession to continue its operation, and there was a second order which designated me, officially, as the attorney for the debtor. And acting under my power, so designated, I convened this meeting which we held at some bank on Wall Street in New York, and at which we had a very large representation of creditors present.

I believe there were over forty persons in attendance. Dr. and Mrs. Barnes were there, and Mr. Supple was there.

THE COURT: So they knew about it? Mr. Barnes knew about it?

MR. BROWNSTEIN: No question about it, your Honor; they were invited.

I had sent out the notices inviting them to the proceedings, and they were there with Mr. Supple at that time.

THE COURT: I wanted to put on record that

there was no clandestine meeting of creditors, to prearrange what was going to happen the following day.

MR. BROWNSTEIN: No, your Honor. This was sometime in August -- this meeting took place on September 5th, at, I think it was the First National City Bank on Wall Street; but I'm not positive that that was the place. But it was the bank.

They very graciously made their facilities available to us. I spent a great deal of time explaining the background of the case and familiarizing creditors with all aspects of it.

I invited questions; I explained the situation, how the case which had been referred automatically to Judge Trevethan was before Judge Seidman. And, incidentally, this became the subject matter of Paragraph 36 of an affidavit later filed by Dr. Barnes, in which he impugned the integrity of the Court, because it was not before Judge Trevethan.

And that is an exhibit, and referred to in the proceedings, if your Honor pleases.

THE COURT: It was never transferred back to Judge Trevethan?

MR. BROWNSTEIN: What happened, as a matter

of fact, was that after Judge Seidman had become so involved in the case, Judge Trevethan simply said "Let it stay with Judge Seidman; he has a handle on the case", and it never went back to Bridgeport.

But, Judge Trevethan told me that when he realized the matter was coming up, and he was going to be away on vacation, and this matter required urgent action because there were deadlines that had been imposed all over this case, he went back to Judge Zampano and obtained an order from him, re-referring the case to both of the Bankruptcy referees, so that either one or both could hear any aspect of it.

But, thereafter, it remained with Judge Seidman, throughout.

THE COURT: Is there any pending claim at the present time before this Court as to the propriety of Judge Seidman hearing this matter?

MR. BROWNSTEIN: No, your Honor.

THE COURT: That was disposed of?

MR. BROWNSTEIN: Well, if your Honor pleases, that was presented in an affidavit submitted by Carl Barnes, at one of the early hearings -- I brought it to Judge Seidman's attention. He was

not familiar with what I was referring to, and, therefore, read the matter into the record, and decided that under all the circumstances he chose not to comment.

A few minutes later, he then decided that he would comment, and stated that the matter had originally gone to Judge Trevethan, but for his vacation plans, it had come to him.

All of which, if your Honor pleases, I had explained to the creditors on September 5th, in the presence of Carl and Mrs. Barnes and Mr. Supple. And it was a very unfair thing to put in an affidavit submitted to this Court, under those circumstances, where my brother had knowledge of that, and I had disclosed it to him.

THE COURT: But there is no such claim before this Court?

MR. BROWNSTEIN: No, your Honor, there is not.

THE COURT: What about this claim, Counselor, that a majority of each of the classifications of creditors did not vote --

MR. BROWNSTEIN: All right, if I may just --

THE COURT: -- favorably upon the approved arrangement?

MR. BROWNSTEIN: If I may, for a moment then answer your question?

THE COURT: Very well.

MR. BROWNSTEIN: The creditors' committee was a cross-inspection of all the people who had an interest in this matter. There were representatives of the convertible debenture people; there were representatives of the senior note holders, and there were representatives of the vendors, who in the main consisted of claims of under $20,000.

We had some very heavy negotiating sessions that took place at my office, where these three groups were going in three different directions; each one was pulling and hauling for something in his position. And eventually, the plan which was filed was the result.

Now, insofar as the Class I creditors are concerned, if your Honor pleases, the creditors' committee was charged by us, once we had agreed on the plan, and I had filed the plan before the Court, with soliciting the consent. It is much easier for a third party representing the mass of the creditors in this matter -- and this is customary in bankruptcy proceedings --

THE COURT: Was that done by a form letter?

MR. BROWNSTEIN: Well, it was done by a letter that was prepared, and I believe it was mimeographed and sent to the various groups.

THE COURT: In other words, it wasn't an individual letter for each individual creditor, individualized or tailored to their particular situation? It was a form letter?

MR. BROWNSTEIN: It was a form letter in that sense.

THE COURT: Is that in the file?

MR. BROWNSTEIN: I don't know if it is, your Honor. I don't believe that the letter of solicitation became an exhibit.

THE COURT: Those letters were sent out the same day?

MR. BROWNSTEIN: Oh, yes.

THE COURT: What date was that?

MR. BROWNSTEIN: I'd be hard-pressed to tell your Honor; it had to be about the time that I filed the plan of arrangement. And that date escapes me. We may have an exhibit that will tell us that in a moment, if your Honor pleases, if I may be excused for one moment?

On October 31, if your Honor pleases, the

plan was filed with the Court. It is my standard procedure in this type of thing, that I go to a creditors' committee as of the time that I file the plan, and say now that it has been officially filed, would you kindly solicit the consent? Which they did.

THE COURT: Who designed this plan?

MR. BROWNSTEIN: This plan was designed as a result of several hard bargaining sessions that took place at my office. And it was the joint work product of the members of the creditors' committee, their respective co-counsel, the corporation acting through Mr. Wolfe, and myself.

THE COURT: And what was the object of the plan?

MR. BROWNSTEIN: The object of the plan was to work out an arrangement that would deal fairly with creditors, and one which would obtain their support, so that the debtor could bring about its rehabilitation, in the absence of which we would be forced into on adjudication with tremendous losses all over the place.

When you asked me who -- if you asked me who designed the plan, I would say in the last instance, it was my work product. But, it was

approved by co-counsel for the creditors' committee.

THE COURT: The primary purpose was to protect creditors; is that correct?

MR. BROWNSTEIN: Not so much a question of protecting creditors; the primary purpose was to get the support of creditors to a negotiation which would bring about the rehabilitation of the debtor, which is the purpose of Chapter XI.

And this must, of necessity, be a plan which is feasible and in the best interest of creditors.

All counsel who were familiar with this and who participated in it were sophisticated in the bankruptcy area, and understood all this.

THE COURT: What was the weight given to the stockholders' interest, aside from creditors?

MR. BROWNSTEIN: Well, if your Honor pleases, we are in a Chapter XI. A Chapter XI does not take into consideration stockholders, as such.

At the point when Dr. Barnes filed the involuntary bankruptcy petition, if nothing had been done, if we had not responded and an automatic adjudication had ended, then the stockholders had zero value in this corporation; their stock was utterly worthless.

So that anything that we did, which preserved something for them, the hope in the future that their stock may once again rise and become valuable -- like a Phoenix rising out of the ashes -- was to put them ahead of the situation that they were then confronted with.

THE COURT: Why do you say that their assets were zero, when they had this potential August 14, '74 contract with Chevron?

MR. BROWNSTEIN: Well, there was a potential there. If we were forced into a bankruptcy situation, there was nothing to prevent Chevron from disaffirming the agreement. Then the matter being put on the block. Where in the world at a bankruptcy auction could a Trustee in bankruptcy negotiate a deal that would bring in approximately nine million dollars? It wasn't in the cards. As a business matter, it just doesn't exist.

They could have, for example, or anyone could have come in and picked up the then patent for a couple of hundred thousand dollars or less, depending on who was interested in it at that point in time.

So, we were surrounded by the imminency of law. We just couldn't afford --

THE COURT: The reason for the Court's inquiry is because your adversary expressed the opinion that it was worth far more than the transaction that had been executed with Chevron.

MR. BROWNSTEIN: At the twist of the test they couldn't produce anyone. Time and time again, they raised that point below. Time and time again, as the transcripts are replete with it, Judge Seidman said to them "Who do you have? Is there anyone in the wings? Bring them in; we'll wait."

Cheever Tyler, who was co-counsel for the creditors' committee, said "I'll go with you to see him."

THE COURT: What happened?

MR. BROWNSTEIN: When push came to shove, there was no one. And that's been the problem from the beginning. We are shadowboxing with what could have been, should have, might have been, but not with what was in fact existing, if your Honor pleases.

It just turned out that nobody was -- they did, in fact, have an offer at one time. The offer, as I recall it, would pay them $25,000 from some company which wanted them to then give them the opportunity for a six month period of time to

investigate whether or not they would become interested in it. Indeed, they couldn't survive on that.

THE COURT: What company made that offer?

MR. BROWNSTEIN: American Cyanamid made that offer, if your Honor pleases. That was the best offer that was made other than the Chevron deal.

This whole transaction had been available; they had shopped the market all over the world, and they couldn't get anybody interested in it.

Chevron, in fact, was the salvation of this situation. And we couldn't afford to let the thing go after all of this.

Why, Dr. Barnes must have felt that way, after months of negotiation on April 24th, he signed the agreement to that effect. And he raises the point that he did it, and it wasn't the unanimous action of the Board of Directors. Well, if that were so, why didn't he, before Judge Seidman, subpoena in Harold Hestnes, the attorney from Hale & Dorr, and have Mr. Hestnes swear under oath what the situation was?

He had prepared the certifications and the resolutions, but Dr. Barnes wasn't prepared to open that door. And here we have innuendo, and

we have accusation, but we have no facts.

And that is basically what it comes down to. The fact was that it was the unanimous action of the Board of Directors.

But, now I get the uncomfortable feeling that what may be what is in the back of his mind is that once he knew that the Chevron deal existed, and there was somebody who would pay around $9,000,000 for the assets, this could be used to do one of two things: Either create enough of a smoke screen so that Chevron will up its offer after they have gone to contract, or use it to go out and find somebody else and say "Well, it must be worth something; after all, we have an offer of almost $8,000,000 from Chevron. How about that arrangement?"

And whether that is so or not, they never once came forward with anybody. The claim was made "Well, nobody will touch it now because it would be an interference with a business transaction."

Well, that was so, but in April, it was considered a good deal. In August, we did what we could to salvage it. We were then faced by the filing of the involuntary proceeding by Dr. Barnes, who had the most to lose if this preparation went

down the drain. He, individually, had the most to lose by virtue of his stock ownership, by virtue of the loss of salary and what have you. Yet, he was hell-bent on election to go forward in this thing, and would have us believe today that his counsel didn't know that he was filing an involuntary, and should have been filing a Chapter X.

I find that just incapable of belief.

As to whether or not a majority in number and amount in Class I had in fact agreed, and had filed the necessary consent, I want to point out to your Honor --

THE COURT: This is on December 20th?

MR. BROWNSTEIN: Pardon me?

THE COURT: On December 20th, '74? I think that was the deadline, wasn't it? Wasn't there a deadline in the notice that you sent out on October 31st?

MR. BROWNSTEIN: Yes, but I don't think that was the date, if your Honor please.

THE COURT: Can you ascertain that? Because their claim is that at that time a majority had not approved it, and it was only later that a majority was accumulated, after the terminal date. That is one of their arguments.

MR. BROWNSTEIN: Actually, if your Honor please, what happened is this: Although a date certain is put in the notices, and it is generally a rather early date, the matter is continued by the Bankruptcy Judge until such time as he feels that, one, there has been a representative number of people who have filed proofs of claim and consent, and, two, at a certain target date, there is a majority in number and amount --

THE COURT: What was the target date here?

MR. BROWNSTEIN: Well, as it worked out, I believe it had been continued -- it was the September 20th date.

THE COURT: September or December?

MR. BROWNSTEIN: December; I'm sorry.

THE COURT: Who continued it?

MR. BROWNSTEIN: Judge Seidman.

THE COURT: Is there an order to that effect?

MR. BROWNSTEIN: Oh, yes. The transcript will show that. I don't believe he entered a written order, but he would continue it for that purpose. And that would show, further show in the transcript.

THE COURT: Whenever any continuance is granted in bankruptcy, isn't there a docket entry

of that continuance?

MR. BROWNSTEIN: I don't know if he does it that way or not, if your Honor please. I can tell you that he states from the Bench that the matter will be continued to a date certain.

THE COURT: Is there a stenographic record of that?

MR. BROWNSTEIN: Yes, there is a full stenographic record, all of which has been filed as exhibits in this case.

THE COURT: So any continuance after December 20th, if that is their claim, could be verified? Isn't that one of their claims? The deadline was December 20th, and at that time, it was 26 to 21, or something like that, so that those approving were less than the number that were disapproving, and then the continuance date thereafter permitted this accumulation, which caused the 2 to 1 vote, so to speak, in numbers, thereafter?

Isn't that their claim?

MR. BROWNSTEIN: No, I think their claim, if I understand their claim, is that on the date when we came forward with the computation of the vote, and stated to the Court that --

THE COURT: What date was that?

MR. BROWNSTEIN: That was December 20th, if your Honor please.

THE COURT: All right.

MR. BROWNSTEIN: On that particular date, when we were ready to go to a determination of whether or not there were such acceptances, that in fact there were not,

THE COURT: That is their claim?

MR. BROWNSTEIN: That is their claim.

THE COURT: Was it a fact?

MR. BROWNSTEIN: Well, I wanted to respond to that, if I may at this point. The computation of the vote was -- what I have before me, and I believe this is an exhibit, if your Honor pleases -- is a computation of the vote. This was prepared by co-counsel for the creditors' committee.

I reviewed this with Mr. Krick. I signed it; Mr. Krick signed it. It was handed up to the Court on December 20th.

In that it contains a summary of Exhibits 1 and 2. And the first one is Class I creditors. It says the number filed, thus unaffected; the total entitled to vote, voting in favor, not voting in favor -- and it is a summary sheet of what appeared.

Behind that is Exhibit 1, which is entitled "Consenting Class I Creditors". It states the claim number, the name of the creditor, and the amount for which the claim had been filed.

Now, of great significance in this entire thing, and hopefully will put this matter to rest for once and for all, there are on it -- I think it is the third page; it is the continuation of Exhibit 1, entitled "Consenting Class I Creditors". Alongside Edward M. Peters, whose claims total here some $19,480.71 is a list, 76, 77, 78, 79, and blank. And the blank is the important thing, because at that time the number had not been assigned to the claim.

But the proof and the consent were with Mr. Krick, because had he not had it, if your Honor pleases, he wouldn't have the total, and he wouldn't have the consent.

Now, this is the question on Mr. Peters.

Now, if your Honor pleases, what in fact happened -- and I was there, so I can tell you what happened -- Mr. Supple was not there; Mr. Bell was not there -- they can't tell you what happened.

But, the transcripts tell the story, and they

are before you, your Honor.

In this situation, where Mr. Krick got up to state to the Court that the creditors' committee had solicited consents and had prepared the summary of the computation, and what have you, and in fact there were a majority of number and amount, and Mr. Evans got up and objected to it. He stated that Dr. Barnes and he had not had the opportunity to examine this, and therefore, they weren't prepared to permit this to go into evidence without an examination.

Judge Seidman said "You are correct; we'll take a recess. You take as long as you want. Examine it, look into the question, satisfy yourselves that that is the situation."

Judge Seidman left the Bench. Dr. Barnes, Mr. Evans, Mr. Krick, Mr. Tyler and I and Mr. Wolfe all remained in the courtroom.

And they went over the claims regiatar, which is simply a docket of which the claims are given a number, the amount, and the purpose. And they satisfied themselves of this, and they found that there were errors.

They found that a couple of claims that were filed for about $134 each had been filed, I think

three times, rather than once. And that they had thought there was some 45 claims that were entitled to vote.

It turned out that there were 42 claims that were entitled to vote, but that the dollar amount was inconsequential; had no effect on the result.

They took better than an hour, a little over an hour to make this determination.

When the determination had been made --

THE COURT: Did they protest that they had not had sufficient opportunity at that point?

MR. BROWNSTEIN: No, your Honor. That was their opportunity. And that is all the time that they needed to satisfy themselves.

THE COURT: The reason I ask, in their brief they said they had 64 minutes, as I recall, and indicating, by inference, that this was too brief a time to properly review the record.

MR. BROWNSTEIN: Judge Seidman would have given them the entire day if that were necessary.

And I would like to read you the transcript on that, because I think it is important. It appears in our brief.

The Court asked how many claims? And Mr. Krick responded: "My girl gave me assistance.

It appears that the same persons have filed numerous claims, which I think my girl has added. There is one person who filed three claims. I think she counted them three times. There is another consenting creditor listed twice, so this would reduce the amount."

Mr. Evans said: "You found 28 in favor, 13 opposed. Disregarding all creditors one included for the mass amount."

The Court said: "That left 45."

Mr. Krick said: "That should have been 42, I guess."

Mr. Evans: "41 or 42."

The Court: "And there are still 32 yes's?"

Mr. Evans: "28 yes's left."

Mr. Krick: "I'll file a corrected statement for Class I for the record."

The Court: "That changes the arithmetic."

Mr. Evans -- and this is underlined in our brief -- "It doesn't change the results, obviously. There was an understanding that whatever letter was sent out by the creditors' committee would be presented."

And then Judge Seidman ended, saying: "Well, it appears that a majority in number and amount of

creditors have accepted the plan. Accordingly, I will find that the plan has been accepted, and I'll declare the first meeting of creditors closed" -- which he did, because that is all he had to do. That was the business of the first meeting.

THE COURT: That was on what day?

MR. BROWNSTEIN: December 20th, if your Honor please.

THE COURT: So there was no continuance with an open end, wherein others were invited in to accumulate the necessary number?

MR. BROWNSTEIN: No, you must have a day certain, or there is no way to close a case.

THE COURT: That is what I understood.

MR. BROWNSTEIN: No, they had satisfied themselves. They sat down there, and they spent an hour. And that was all the time they requested.

Now, as a result of that, how can they come back now and claim they didn't have time, and what have you? I just don't understand the nature of the argument.

THE COURT: All right.

MR. BROWNSTEIN: Secondly, if your Honor pleases, also on this computation, on this exhibit that lists claim number blank, the Hawley Hardware

Company, $47.18 claim number blank, Mitsubishi International Corporation, $16,191.25; claim number blank, Serico Electric Company, Incorporated, $5,178.36.

The blank is because the Court had yet to assign a claim number to it. The proof was there, the consent was there, but the mechanical aspect of it had not been performed as of that date in the Clerk's office. And that is what we are talking about.

Now, my brother makes much of the fact that Mitsubishi was marked received on December 23rd, which would in fact would have been after the proceedings, and Serico was similarly marked received December 23rd. They are correct, the stamp "December 23rd" was not applied until December 23rd. But, that doesn't change the fact that these claims were in court. If they weren't in court, how in the world would this have been prepared by Mr. Krick before he got to the courtroom?

They neglected to tell your Honor that. They had to be there. They were in fact there.

And following the proceedings, Mr. Krick took them into the Clerk's office and left them for the purpose of having them mechanically do whatever

was necessary. But, because of the work volume before Judge Seidman's clerk, they didn't get around to physically stamping them and putting them on the claims register until the subsequent time.

Now, if your Honor pleases, I'm aware of the fact that my brother is from another jurisdiction, and is not familiar with the case laws, the decided bankruptcy cases here in Connecticut. I happen to be the reporter for the two Bankruptcy Judges in this community, and have periodically prepared and have published in the Connecticut Bar Journal various important cases of this sort.

Apparently, they are unfamiliar with the case which appears in our sur-reply brief. It is In Re T.M. Systems, which is a case that was decided in November of last year by Judge Treyethan.

It is a case of first impression in this jurisdiction, and as far as I know in any other jurisdiction. The case holds, if your Honor pleases, and the reasoning is superb; very clear analytical, good reasoning, which I believe would stand up under scrutiny, if indeed anyone took it up. And no one in fact has taken the case up.

The case stands for the proposition that the filing of proof of claim and consent with an

official creditors' committee, constitutes a filing with the Court. I think that puts the end to this matter on this issue altogether.

That is recent law in Connecticut. We have not only -- not only have we attached as an exhibit to our sur-reply brief that case, so that your Honor may have the benefit of the analysis of it, but we synopsize it in the brief, too.

I think fully and completely, once and for all, this red herring -- and that's all it is -- about Class I creditors not having consented, should be put to rest.

That argument had to be made out of whole cloth by counsel, who had no familiarity with what took place in the courtroom on December 20th, if your Honor pleases.

THE COURT: One other thing, while I think of it. It isn't quite in order of your presentation, but if I don't mention it now, I will forget it.

MR. BROWNSTEIN: That's all right.

THE COURT: At the time Mr. Barnes filed his petition on August 12th, apparently -- and you correct me if I am wrong -- it was based on the theory that this April agreement, transferring what he believed to be the major capital assets, namely

the patent, under the Delaware corporation law, required a majority vote of all stockholders; which majority vote was never acquired, even to the present time.

What is your observation on that position?

MR. BROWNSTEIN: I think as a matter of law, it is correct. I don't think that it did constitute -- it did fall within the purview of the Delaware law.

An attempt was made when Hale & Dorr handled this matter, before it got to the bankruptcy proceedings, to --

THE COURT: Over how long a period did Hale & Dorr represent this corporation?

MR. BROWNSTEIN: Oh, for years, if your Honor pleases.

THE COURT: How many years?

MR. BROWNSTEIN: Mr. Wolfe will have to assist me in that.

MR. WOLFE: Four or five years.

MR. BROWNSTEIN: Four or five years, if your Honor pleases.

THE COURT: Four or five years prior to what date, the bankruptcy?

MR. BROWNSTEIN: Yes, your Honor. Prior to

August 12th, the date of the filing of the petition.

THE COURT: So we might normally conclude that it had competent counsel?

MR. BROWNSTEIN: That is a very prestigious firm, and they have competent counsel there, if your Honor pleases.

THE COURT: All right. And it was during that period of time that they were represented by Hale & Dorr, that this August 12th -- or rather this April, '74 transaction occurred?

MR. BROWNSTEIN: Yes, on April 24th, I think. That's correct. They were involved in that, and participated in that, and spent many months of negotiations. That was all before I came into the case, if your Honor pleases.

THE COURT: I assume the real assets, and only real assets that they had were these patents, and the potential of those patents, and the work of development that had accrued, arising out of those patents?

MR. BROWNSTEIN: Well, there were licenses back, and they were not precluded from going into other endeavors, if your Honor pleases.

And one of the points that Mr. Supple made was

that this effectively put them out of business. That isn't so. ALRAC has been continuing in business since January 1st, this year. They have gone into another process altogether.

There is an agreement with Chevron that causes Chevron to advance to them, at the rate of $30,000 a month, funds with which to go into these other endeavors. And they are doing just that. And hopefully they will come out with something that will prove commercially beneficial.

THE COURT: Does that pertain to the development of these same patents?

MR. BROWNSTEIN: It has nothing to do with it. Completely unrelated. It involves a silver reclaiming process, if your Honor pleases.

Mr. Supple talks about the mathematical impossibility of performing the terms of the arrangement. He may be a better mathematician than I am, if your Honor pleases, or then the members -- or more than the co-counsel for the creditors' committee. But, when we negotiated this, we obviously tied the payments into the monies that would be received from Chevron.

And if it developed, as he mentioned, certain of the claims, that some of these claims will be

objected to, and the amount will be reduced very significantly, I don't think we are going to have any mathematical impossibility of performance. And even if that should prove to be tne case, ALRAC is presently engaged in another endeavor, and hopefully will prove profitable, and they will send off additional funds with which to make the payments, when as and if they become necessary.

THE COURT: What about his criticism that as to the present moment the proposed arrangement proved by the Bankruptcy Judge is not feasible, because the addition just doesn't demonstrate that the assets are there to accomplish what he claims he is planning to do?

MR. BROWNSTEIN: Well, I don't think that is so.

THE COURT: That is what I want your observation on.

MR. BROWNSTEIN: I thought I just answered.

THE COURT: You did; you said if there isn't enough money there, what they might hope to do is earn on these new projects, which will supplement it, and then they will have enough. That is pretty speculative, too.

MR. BROWNSTEIN: If it is short by anything,

it is short by a very small amount.

THE COURT: Is it short by anything? That's what I want to know.

MR. BROWNSTEIN: I don't believe so, and I believe after we get through on some of the contested claims, we will find that we are well within the mathematical bounds of this.

Today was the first time I heard that argument raised. I was rather surprised by it, because my recollection was that when we put this whole program together, we had worked out the mathematics of it, and pinned it all into the monies that we expected to receive from Chevron, and nobody once raised the problem that it was mathematically impossible to achieve.

So that this took my by surprise today.

Insofar as the S.E.C. was concerned, on three separate occasions, as I understand it, Mr. Supple has approached the S.E.C. in order to ask them to intervene in this matter and assist -- if not come forward with a motion to petition this matter into Chapter X.

And the best that he could receive from them was a letter stating that they took no position in the matter at all. And that's an exhibit in

this matter.

However, they did suggest the legend go on the stock, as being in the best interest of the investing public, so they would not be deceived by anything.

We thought that that made very good sense. And as a result of that, we modified the plan, on our own motion, in a way which we felt would not materially or adversely affect the rights of the parties.

THE COURT: Was that modification approved by the creditors? And, if not, was it required to be, in view of the effect it had on the intrinsic value of the stock?

MR. BROWNSTEIN: You have to remember, if your Honor pleases, if the stock had zero value to begin with, as of the date of the filing of the petition, they couldn't have been harmed by the legend going on it. Either it was restricted or unrestricted stock. And we certainly were in no position to give anybody unrestricted stock.

THE COURT: Didn't S.E.C. regulations require that absent approval, that notification should appear on these documents?

MR. BROWNSTEIN: Not that I am aware of.

THE COURT: I'm just wondering.

MR. BROWNSTEIN: Not that I'm aware. If they wanted to make that a condition, they would have come forward and made that known in the court.

THE COURT: But you voluntarily put that on the documents?

MR. BROWNSTEIN: We first discussed it -- we first discussed it with the group that would be affected, the two groups that would be affected by it. They said they had no objection to it. We wanted to test their sentiments on this. And there was no objection.

THE COURT: You say you discussed it with these groups; how did you discuss it?

MR. BROWNSTEIN: Well, there were certain people who were very vocal for each of these various classes of creditors, who appeared at the stockholder meetings, and who, in no uncertain terms, let us know exactly what their thinking was. The others seemed to follow them.

I don't recall that we had a special meeting of the creditors' committee for this purpose. But I think I did speak with those people who were considered leaders of the various groups that were involved.

But the fact was that Judge Seidman reached the conclusion that the legending of the stock itself would not materially and adversely affect the rights of stockholders under the circumstances.

THE COURT: From 12 cents to 6 cents was not material?

MR. BROWNSTEIN: That was highly speculative, if your Honor pleases. Mr. Grace was really asked that information not so much to determine the present day value of the stock, because in fact it had no value; he was being asked that question because that had to be used to form the basis of making a determination of what the referee's salary and expense fund could be predicated upon. That is necessary in bankruptcy.

We had to have some figure to work from, in order to make that type of an assessment, because otherwise we wouldn't know what the amount of the deposit would be. And that was really the reason why he was asked those questions.

THE COURT: No one effected an appeal from that proposal?

MR. BROWNSTEIN: Nobody objected, and nobody appealed, if your Honor please.

THE COURT: What is going on now, Counselor,

with this company? It is in a sort of limbo, so to speak?

MR. BROWNSTEIN: No, not really.

THE COURT: What is going on there?

MR. BROWNSTEIN: Well, as I say, they are presently engaged in a silver reclaiming process. This is something that they had not heretofore been engaged in. This is a new venture for them.

THE COURT: Silver mining?

MR. BROWNSTEIN: No, no. I believe that what they do is they take film, like Xray film, which has a silver coating on it, and after they have been used, there is a process of reclaiming the silver from the film. And this has a commercial value.

THE COURT: Silver oxide?

MR. BROWNSTEIN: That's correct, your Honor. That's correct.

And they are presently engaged in that type of activity.

They have also been looking into other possibilities, where in the areas they are not restricted from engaging in by virtue of the agreement, that there may be other things they can do.

This is basically a research and development

company, and has been from its inception, if your Honor please.

What happened is they ran out of money long ago, and ended up with something like 5.3 million dollars worth of debts.

THE COURT: All right. Is there anything else you would like to add, Counselor, that isn't in your brief?

MR. BROWNSTEIN: Well, if I may just take a moment to examine my notes, if your Honor please?

THE COURT: Certainly.

MR. BROWNSTEIN: I am fascinated by the fact that Mr. Supple says that the patents may be worth a billion dollars. I wish he could have produced somebody who would have offered it during the Chapter XI; it would have made a lot of sense during that time, rather than making that statement today, without any such support.

I would like to add one other thing, if your Honor please. Why was the appeal taken? Mr. Supple raised that question.

Early on, I believe at the first meeting of the creditors' committee, Mr. Evans approached me with Dr. Barnes' personal price for withdrawing his opposition to this matter. This is a matter

of record.

THE COURT: For withdrawing what?

MR. BROWNSTEIN: His opposition to the Chapter XI proceeding. This appears in Mr. Wolfe's affidavit, which is a part of the record in this case.

Dr. Barnes wanted for himself shop rights to the patents that were given to Chevron.

THE COURT: And what do you classify as "shop rights"?

MR. BROWNSTEIN: I guess he wanted rights so that he could use some of the patents for his own purposes. He wanted to be reinstated as a director of the corporation, and he wanted some back pay. And when he was thwarted, when these were rejected, I then went into the full creditors' committee meeting, and Mrs. Barnes and her counsel were present, and told them of that conversation. And they rejected it, as well as the corporation. I think that is what was behind the entire proceedings.

THE COURT: You say they rejected it?

MR. BROWNSTEIN: The creditors' committee wouldn't hear of it. They felt Dr. Barnes was in charge of the company at all times when it had amassed this stupendous obligation, and he shouldn't

profit from it. And that is what this case is all about.

Thank you, your Honor.

THE COURT: Was that made a matter of public record at the time? Or were those consultations of counsel?

MR. BROWNSTEIN: No, your Honor, those were not privileged; those were not privileged matters between counsel.

I told Mr. Evans that I was going to mention this. I did mention it at the beginning of the proceedings, at the creditors' committee. And they appear in Mr. Wolfe's affidavit, and were never refuted by Dr. Barnes in any affidavit that he filed -- and he filed a lot of them in this case.

THE COURT: Mr. Wolfe's affidavit is in the file?

MR. BROWNSTEIN: Yes, your Honor, it is.

THE COURT: Very well.

MR. BROWNSTEIN: Thank you, your Honor.

MR. MILLER: If your Honor please, I would just like to add a very short statement on behalf of Chevron Research.

THE COURT: May we have your name?

MR. MILLER: Harvey R. Miller.

I would like to point out to your Honor that Mrs. Barnes, who at this proceeding was a member of the creditors' committee, participated in all of the deliberations in that committee, including the negotiations and the final formulation of the Chapter XI plan.

Secondly, your Honor asked what is this company doing since the Chapter XI?

I would like to point out to your Honor that since the consummation of the Chapter XI, my client has paid $450,000 to the debtor, in addition, pursuant to a consulting agreement, we are obligated to pay this company $240,000 for the calendar year 1975. We have paid, as I understand it, $210,000 to ALRAC, and ALRAC has used those monies, as I understand it. In consideration for that we get consulting services, and there are employees of ALRAC who are rendering services to Chevron in the development of these patents.

If it hasn't come out before, I think your Honor should know that these patents have not been fully developed. By Dr. Barnes' own testimony, many millions of dollars are going to be required before these patents have any commercial utility. And if, as Mr. Supple says, these patents have a

value of one billion dollars, then ALRAC is going to share in that one billion dollars, because they have a percentage royalty on sales of these textile fibers, if they ever come into being.

THE COURT: What is the percentage?

MR. MILLER: I don't recall, your Honor. It is in the purchase agreement, but it could be very substantial. If it was a billion dollars in sales, ALRAC would receive substantially more than eight million dollars. It would run into the hundreds of millions of dollars. It all depends on whether these patents have any commercial feasibility.

Now, commencing in January of 1976, your Honor, we commence to pay $500,000 a year, which is the minimum annual payment to be made under those agreements through 1990, as I recall it.

If there are sales of these patents, then the price will go up. In addition, your Honor, there is a license back to ALRAC, and ALRAC can engage in using this process with certain types of products which are set forth in the ALRAC license agreement. And they have an exclusive license back. One is for Nylon-4 finished products, as it is defined in that agreement, through 1980. And

another one is the Nylon-4 finished products, consisting of molded and shaped products through 1984, which could be very valuable.

And there was testimony before Judge Seidman as to the value of those grant back privileges.

Now, your Honor referred to the question of the legend on the stock. As Judge Seidman found, that legend merely reflected existing law. When Mr. Grace was testifying, he was testifying as to what somebody might pay for stock certificates about the legend, on the basis that the stock certificates were freely transferrable.

We have pointed out in the brief, your Honor, that insofar as the S.E.C. is concerned, stock issued pursuant to a Chapter XI plan is not freely transferrable. The exemption which is contained in Section 393 of the Bankruptcy Act is a transactional exemption only. It means that there is no registration required, going from the debtor to the recipient of that stock.

But, if that recipient of stock desired to sell that stock, it either must be exempted by some provision or rule of the S.E.C., or there must be a registration statement.

I assume that what Mr. Supple is saying is

that there is a difference in prices if somebody tried to palm off that stock as being freely transferrable. What ALRAC Corporation did is they agreed to amend the plan, put a legend on the plan, and add to that an unqualified obligation to cause the registration of that stock within two years. Judge Seidman found that that was a benefit to the creditors.

THE COURT: Has that been done yet? Has it been registered?

MR. MILLER: No, your Honor, the two year period runs from December 31, 1974.

THE COURT: Have steps been taken to register it?

MR. MILLER: Not that I know of, your Honor. It would seem to me that the registration would wait, at least until the second year, to see what is happening in the development of the patents, and what is happening with the company.

THE COURT: All right.

MR. MILLER: So, in accordance with Section 363 and 364 of the Bankruptcy Act, your Honor, Judge Seidman had a hearing as to whether the amendment adversely modified and affected creditors. He found it did not. Co-counsel for the creditors'

committee were present. Other creditors were in the courtroom, and nobody objected to the modification, except Dr. Barnes and Mrs. Barnes.

Now, ultimately what is it that Dr. Barnes and Mrs. Barnes would rather have than let Chevron get these patents and this plan go through? He testified he'd rather see the company in bankruptcy and liquidated, which would wipe out stockholders, would wipe out subordinate debenture holders, and probably would wipe out most of the creditors.

What we are faced here with your Honor, is with his two appeals. One was an appeal from the Chapter X motion. Mr. Supple concedes in the brief, which I understand he wrote, that there is no issue of fact on that motion.

Based on the facts as Judge Seidman found them, the simple question is did Judge Seidman abuse his discretion in denying the application to transfer this case to Chapter X?

In order for this case to be transferred to Chapter X, there must be a finding that adequate relief is not available to ALRAC Corporation under Chapter XI.

Well, the indebtedness of ALRAC Corporation is almost entirely unsecured. I believe the only

secured creditor is the Hartford National Bank, which has to furnish fixtures, a very nominal amount of money.

What does the Chapter XI plan purport to do? It purports to pay two classes of creditors, who would hold the bulk of debt, 100 percent over a period of seven and eleven years, respectively. The precise objective for what Chapter XI was intended was done in this case.

Now Mr. Supple comes up with a very novel theory that you cannot have a Chapter XI plan if you issue stock. And I say to Mr. Supple, your Honor, what does Section 393 of the Bankruptcy Act intend to do? It contemplates the issuance of a stock in exchange for claims of one kind or another.

And what was done here, as Judge Seidman found, was that the stock is being issued in consideration of the waiver of interest, and the agreement on the part of the creditors to wait seven and eleven years.

So, there is no problem in conforming to the provisions of Chapter XI. There is no way, and there has been no sustaining of his burden by Dr. Barnes of showing that adequate relief was not

available to ALRAC Corporation under Chapter XI of the Bankruptcy Act.

There has been no demonstration that Judge Seidman abused his discretion in any way in denying that conversion motion.

THE COURT: What specific provision, for my assistance, is provided in the Bankruptcy Act, which says when adequate relief is available under Chapter XI, that Chapter X cannot be used?

MR. MILLER: If your Honor would refer to Chapter XI, Rule XI-15, which became effective in July of 1975, that is the so called conversion motion rule. It provides that a motion to transfer a case from Chapter XI to Chapter X must conform with official form 10-1. And in that official form there must be an allegation that adequate relief is not available to the corporation under the provisions of Chapter XI.

In other words, it is a condition precedent, your Honor, to avail yourself of Chapter X, that Chapter XI is not available.

Chapter X is a very pervasive, extended, expensive proceeding, not intended for companies which have entirely unsecured debts. The very fact that the S.E.C. did not join in the motion,

notwithstanding a public interst by reason of its debentures, from my point of view, your Honor, establishes that there was no need for a Chapter X proceeding in this case.

Also, if your Honor would refer to Section 328 of the Bankruptcy Act, and Section 130(7) which contained what must be included in a petition for Chapter X, I would point out, your Honor, that Rule 11-15 actually increases the burden on the proponents for a Chapter X proceeding.

THE COURT: Let me ask you this, Counselor --

MR. MILLER: Yes, sir?

THE COURT: Could Chapter X have been used in this particular situation?

MR. MILLER: No, your Honor.

THE COURT: Why not?

MR. MILLER: Because -- excuse me, your Honor, this corporation did not have the wherewithal to operate in a Chapter X proceeding.

When this Chapter XI was filed, the landlord of the premises was ready to evict ALRAC from the premises. The Telephone Company refused to provide services, unless a security deposit was put up. The Electric Company refused to provide electric service unless a security deposit and the bill was paid

Because the Chevron-ALRAC license agreement was approved by Judge Seidman at the hearing held on September 6th, we agreed to advance those monies. If this company had gone into Chapter X, there would have been no reason for us to advance those monies.

THE COURT: Why not?

MR. MILLER: Because, your Honor, Chapter XI takes such an infinitely long time to consummate. The average life of a Chapter X case, I would say, your Honor, runs from five to ten years.

In the year 1974, the fiscal year, your Honor, I believe there were 161 Chapter X cases, as compared to 2200 in round figures, Chapter XI cases.

They are very expensive. It takes a long time to come up with the plan, your Honor. And the companies which have an operating commercial business -- this is a research development company, with totally unsecured debts. Chapter X is designed to deal with secured debts, to hold secured creditors off, to reconstruct your very complex debts and equity structures.

This company didn't have a complex debt equity structure. It had unsecured debts. A very simple stockholder position, which was not acquired by them,

but acquired from a merger, when ALRAC merged into another corporation. It picked up 1,500 stockholders. In effect, it went public by the back door.

But, Chapter X is not intended for the kind of problem that this company had. And the plan adequately and fairly met the needs that had to be served by this corporation.

What does this corporation need? Nothing really more, your Honor, than an extension of the due date of its various obligations, and an ability to realize on these taxes, which will require and are now consuming substantial amounts of money.

There was nothing else that was really needed. And what has it gotten out of the Chapter XI? It has gotten a long term pay out on its obligations.

In addition, it has a cash flow which my client is providing, which enables it to stay in business. If the patents are valuable, that cash flow would appreciate substantially.

Now, in connection with the "order of confirmation," your Honor. The order of December 31, 1974, which is the second order appealed from -- I would like to add what Mr. Brownstein said in connection

with the voting. Your Honor put his thumb right on the pulse of the case.

What Mr. Supple is arguing, and Dr. Barnes, is a technicality. There is no question that all of these creditors accepted the plan. So if the hearings or the case were remanded for the purpose of a new vote, nothing would change.

But, beyond that, your Honor, there are three votes which are objected to by Dr. Barnes: The Mitsubishi vote, the Serico vote, and the Peters vote.

Now, he had pointed out quite properly that the Mitsubishi and the Serico claims were not stamped received by Judge Seidman's office until December 23rd, 1974, the Monday following the Friday hearing at which they were voted. And he says for that reason they cannot be counted.

But, Mr. Supple doesn't point out that the Peters claim was marked received by Judge Seidman's office on December 5, 1974, and was in Judge Seidman's court, filed at that time.

Mr. Supple just for the first time today made the statement that that claim was sent back because it was incomplete. There is nothing in the record that establishes that. That is the first time it

has ever been said.

The claim was stamped received by Judge Seidman on December 5th, and we have demonstrated in the brief with Mr. Brownstein, your Honor, by tables, that eliminating the Mitsubishi and the Serico vote entirely, and just counting the Peters vote, that there is a majority in number and amount on December 20th.

Further, your Honor, we submit that it wouldn't make any difference whether the claims were stamped or not, because they were in court. They were in the possession of Mr. Krick, as co-counsel for the creditors' committee. Mr. Krick was the fiduciary. The receipt by him, under Rule 509 of the Bankruptcy Rules constituted a receipt by the Court. And those claims were available, and those creditors could vote for or against the plan. They voted for the plan.

THE COURT: Attorney Krick's title was what?

MR. MILLER: Co-counsel for the creditors' committee, and consistent with Judge Trevethan's recent decision in the T. M. Systems, under Rule 509, those claims were before the Court.

I have to point out to your Honor that the hearing on December 20th went practically all day.

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It is my recollection that it did not end until four o'clock. As Mr. Brownstein said, Mr. Krick left the claims in the office of the Clerk. Obviously, the Clerk did not enter them until Monday morning, the 23rd.

Now, Mr. Supple makes the argument that a received stamp on a claim doesn't mean that it is in the court files for voting purposes; that it has to be marked filed.

And, Judge Seidman does use two stamps. But, we have cited in the sur-reply brief, your Honor, cases that stand for the proposition that filing is a manual delivery of a document to the Court, whether it is stamped or not. It is filed when an administrative person takes possession of that piece of paper.

Now, as to feasibility, your Honor. There is no question of feasibility in connection with this plan. The plan is geared to the payments which Chevron will make under the purchase agreement, which was approved by Judge Seidman when he entered the order of confirmation.

The plan specifies the dollars which are to be paid each year under the plan. Those are minimum dollars. It is contemplated that Classes

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II and III will get 100 percent, based upon what Chevron is paying. Thus, if you look at the plan, your Honor, you will find that in year 1, $400,000 goes to Class II, for a period of six years. Then in the final year, they get the last payment. Then it picks up on Class III.

But, the plan is geared to the payment which Chevron will make. Therefore, your Honor, it has to be feasible as long as Chevron lives up to its obligation.

And in that connection, your Honor, I point out that Chevron has a right to walk away if these patents suddenly turn out not to be commercially feasible. There is a walk-away privilege under the purchase agreement.

THE COURT: What does that provide?

MR. MILLER: We can --

THE COURT: Nobody mentioned that walk-away privilege. What does that provide?

MR. MILLER: We can reconvey the patents back to ALRAC, your Honor.

THE COURT: When?

MR. MILLER: At my recollection, at the end of the first, third, and sixth years.

THE COURT: And no longer be obligated for

anything?

MR. MILLER: That's correct, your Honor. And that is geared in, your Honor, to the understanding that everybody has, that these patents have not yet been proven to be commercially feasible. And we are investing a lot of money in developing these patents. But, if they do turn out, let's say, at the end of year 3, that we haven't been able to develop anything, and we spent several million dollars, we may decide that that is enough, and then they can go back to the corporation, and the corporation can go out and sell them again, your Honor, if they have any value whatsoever.

But, we are the ones that are gambling.

THE COURT: How far along have you gone? Are you producing fiber now?

MR. MILLER: No, your Honor, we have constructed a pilot plant.

THE COURT: A what?

MR. MILLER: A pilot plant, to test whether it can be produced into a fiber which can be commercially usable.

THE COURT: How big a plant?

MR. MILLER: I don't know, your Honor. It was built in California. But I can tell your Honor

that a substantial amount of money has gone into it. In addition to what we have advanced to ALRAC, so that ALRAC can proceed with its own operation, we are investing a substantial amount of money.

And that raises a point, your Honor, that is alluded to in our brief: No application has been made in this case, nor was it made at the time the appeals were filed, for a stay of the implementation of the order of confirmation. No bond has been filed by the appellants. And, as we point out, pursuant to Chapter XI-62, an order which involves the transfer of properties, unless a supersedeas bond is posted, or an injunction is obtained, that transfer cannot be affected by any reversal of the order. In effect, everything has gone forward, and the appellant has done nothing in this case to indemnify anybody against losses. If there were a reversal in this case, your Honor, the damage claim against ALRAC would be unbelievable in terms of dollars, which of course they couldn't respond to it. It would make any plan impossible of consummation.

I submit to your Honor that there hasn't been anything which has been established here today which demonstrates, one, that Judge Seidman abused

his discretion in connection with the denial of the conversion motion, or, two, that the order of confirmation was erroneously entered.

There has been no plain error of law established.

THE COURT: How much have you -- I say "you" -- Chevron, paid in to the present moment?

MR. MILLER: To the present moment, your Honor, during the course of the Chapter XI, we had an interim consulting agreement, pursuant to which we advanced $20,000 a month. My recollection is there was $100,000 advanced during that period. Either $100,000 or $120,000, your Honor. I'm not quite sure.

We paid $450,000 at the time of confirmation, which was the initial payment under the purchase agreement. Since that time, we have paid to ALRAC $210,000, and have an obligation to pay, before the end of this year, an additional $30,000.

In January of 1976, we are obligated to pay $500,000.

THE COURT: At the present time you have got in what, $760,000?

MR. MILLER: In round figures, yes, your Honor. Those are direct disbursements to ALRAC. That does

not include what we are investing ourselves in the construction of a pilot plant, in men, power, raw materials -- which is a very substantial investment. And I have to repeat what Mr. Brownstein said, your Honor, Judge Seidman repeated, ad infinitum, "Mr. Barnes, bring in somebody who is willing to make an offer. Bring in somebody else."

Never once did anybody come forward. American Cyanamid never showed up; they sent a letter. When Mr. Joyce appeared one day, he said that there is somebody right outside the door of the courtroom, and Judge Seidman said go out and bring him in. And Mr. Joyce said "I wasn't serious; I was just being funny."

Not once has anybody come in. And insofar as the relationship of contract interference which somebody raised one day, Mr. Tyler told Dr. Barnes that he had researched the law, and as counsel for the creditors' committee under Connecticut law, he does not find that there would be any contract interference if somebody came into the Bankruptcy Court and made another offer. And he said "I'll go with you to anybody you want." Nothing happened.

The whole thing, your Honor, is nothing more than a sham on the part of Dr. Barnes to try and

get something for himself.

And those shop rights which he wants, which he wanted from Day One, your Honor again put his thumb on the pulse; he made a deal, and after he made the deal, he wanted a better deal.

And that's the nub of the whole problem. He wants to repudiate the deal he made, so he can get something for himself.

And I submit to your Honor, with all the creditors involved, and with the corporation and the careful consideration that Judge Seidman gave to this matter, that both orders should be affirmed.

Thank you, your Honor.

THE COURT: It is now one o'clock. We usually take our recess until two.

Would you like to come back at two? I would be glad to have you here and hear you.

MR. SUPPLE: Your Honor, I do have a few remarks to make in reply.

THE COURT: I don't want to limit your opportunity. I have another matter set down for two o'clock, as well. So, if it is going to be lengthy at all, I like to have lunch, like everyone else. And we will be back here at two.

MR. SUPPLE: May we return at two?

THE COURT: I don't want to cut you off. We have plenty of time.

Recess until two o'clock.

(Recess.)

JUNE 30th, 1975, AFTERNOON SESSION:

THE COURT: Getting back now on the record to complete our argument in Bankruptcy Matter Number B-74-399.

Counselor, you may proceed.

MR. SUPPLE: Your Honor, I wish to make a few remarks in reply to statements of appellee's counsel.

THE COURT: Before we get to that -- it has no bearing on the legal matter, but this Nylon-4 that has been referred to, and is the subject of this controversy and the patents relating to it; how does that differ from the regular Nylon, as a practical matter?

MR. SUPPLE: Your Honor, this is my unlearned, untechnical knowledge of it: I understand that the Nylon made from this particular material has breathing characteristics, such as cotton would have. It is non-static. It has far greater dyability capabilities.

THE COURT: Those are the properties?

MR. SUPPLE: These are the properties of it, yes, your Honor.

THE COURT: Is it made by dissolving the substantive materials, say, cotton linters in acid,

and then squirting it through a frame that precipitates thread? Is that the way it works, do you know?

MR. SUPPLE: Your Honor, I'm completely lacking in the technical capabilities of the area.

THE COURT: Very well; I was curious.

MR. SUPPLE: If I may say, Dr. Barnes is here --

THE COURT: It isn't necessary. I thought probably you would know.

DR. BARNES: I'll tell him after.

MR. SUPPLE: I'm afraid, your Honor, I cannot.

THE COURT: Very well.

MR. SUPPLE: Your Honor, reference was made by Mr. Brownstein to an affidavit of Harvey Wolfe. Now, I have seen prior references to that affidavit in the transcripts. I have not seen the affidavit itself.

My recollection of it, of the references to that affidavit, and the area of it to which Mr. Brownstein alluded, differ from Mr. Brownstein's representations in a very critical area.

May I ask if the record is with the Court -- could that affidavit be produced at this point?

THE COURT: You may look through the file, Counselor, and find it, if you will.

MR. SUPPLE: All right. If I may, your Honor, I will give it to Dr. Barnes, and perhaps he could find it.

THE COURT: All right. We'll leave it in your custody, and see if he could find it.

MR. SUPPLE: Thank you.

The particular aspect of Mr. Brownstein's comments on that affidavit I wish to bring to the Court's attention is that counsel for Dr. Barnes, as I understand it, is supposed to have had a discussion with Harvey Wolfe, in which he stated that Dr. Barnes wished shop rights personally for himself.

Now, I have never seen an allusion to such a comment in prior references to this affidavit.

If the affidavit is available, it is a point that I think is of some importance. If Mr. Brownstein can produce the affidavit and the particular reference, it would be appreciated.

Your Honor, may I bring to your attention that the total amount committed to payment of Class II creditors' claims is limited by Exhibit A, attached to the plan of arrangement. Exhibit A being the certificate of indebtedness to be issued by the debtor in exchange for the notes -- short

term notes and senior notes, and the funding for payment thereof is specifically set forth in Exhibit A.

The reason I bring that to the Court's attention is that there have been references made, which I think implied that the entire proceeds, or the entire income of ALRAC would be committed to payment of these obligations.

Your Honor, I also bring to your attention that I myself was never in contact with the S.E.C. In fact, I was not in direct contact with this case until only after the September 6th hearing in Hartford.

I do believe Dr. Barnes and counsel who were representing Dr. Barnes at that time were in touch with the S.E.C. on approximately three occasions.

Your Honor, Mr. Brownstein has stated that he had some discussions with some of the more active representatives of the Class II and Class III creditors concerning this legend which the S.E.C. first raised. I would like to point out to the Court that the hearing, that the S.E.C. letter I believe was received by the Court, and it is part of the record, with a receipt stamp on it, received by the Court -- if my recollection serves me, on

or about the 19th of December.

I don't think it provides much of an opportunity for any discussion of this before December 20th, which was the critical date.

Your Honor, reference has been made by the appellee's counsel to the stamping of documents, with a received stamp, "Received December 23rd." Your Honor will also find that these items were stamped with a file stamp, and the particular claims that we are speaking of, there are file stamps of December 30th.

THE COURT: What about your adversary's argument that the sheets demonstrating the claim and the discussion concerning them were actually had on the record before Judge Seidman? They are alluded to; they were in the possession of the creditors' committee, and they were referred to in the record at the time of the hearing on December 20th.

MR. SUPPLE: The Peters claim, the Mitsubishi claim and the Serico claim were not referred to in the record, your Honor. They were not referred to in the record on December 20th.

THE COURT: Wasn't there a document that was presented?

MR. SUPPLE: Yes, there was, your Honor. And I have the document here in front of me.

THE COURT: And it didn't have a number on certain of the claims, as counsel referred to, but just that they were present, without a specific number for identification?

I wasn't there; I don't know.

MR. SUPPLE: Yes, your Honor, the Peters claim was three numbers, and then a blank. I must confess that I missed the relevancy of Mr. Brownstein's reference to the blank.

THE COURT: Is there an amount opposite the blank?

MR. SUPPLE: There is not an amount opposite the blank. The cumulative amount is set forth as $19,480.71.

THE COURT: Does that total the items stated, or does it total the items stated plus what purports to be the additional items in the blank?

MR. SUPPLE: The latter, your Honor. It is the specific numbers, plus an additional item.

THE COURT: So it must have been before the Court then?

MR. SUPPLE: No, your Honor, it was not before the Court.

May I read to you the representation that was made to the Court by Mr. Brownstein?

"Computation of vote on arrangement.

"The undersigned" -- being Mr. Brownstein -- "having reviewed the court records as of this date, states that the proofs of claim relating to Class I creditors, as per Exhibits 1 and 2 annexed hereto, and as to Class II creditors, as per Exhibits 3 and 4, annexed hereto, and as to Class III creditors, as per Exhibit 5 annexed hereto, indicate that that majority in number and amount have proved the proposed arrangement.

"Dated at Hartford, Connecticut, this 20th day of December, 1974."

Your Honor, bringing this to your attention, that this was the representation made to the Court, not only to the Court, but to Mr. Evans -- Barnes' counsel, and to Mr. Evans -- that Mr. Brownstein had reviewed the records of the Court. They hadn't reviewed what was sitting in Mr. Krick's pocket; they hadn't reviewed what may have been sitting in Mr. Krick's office, or in Mr. Brownstein's office.

THE COURT: Didn't your attorney have the right to reduce those items, and weren't they given to --

MR. SUPPLE: Your Honor, what they were given was a representation that these claims were on file.

THE COURT: All right. Why couldn't they have asked them to produce them, if they wanted to see them?

MR. SUPPLE: Your Honor, when you are given an opportunity in the middle of a proceeding to examine claims that number up as far as 200, as of that date, approximately 220 or so, plus all the mathematics that go into computing the various allowances, your Honor, it is an impossible job to do in one afternoon.

I am told, frankly, by Dr. Barnes, that the, did not stay in the courtroom -- I say "they", I'm referring to counsel identified by Mr. Brownstein -- that he was left the job, he, Dr. Barnes, was left the job of sitting at counsel table during the break, and he was the one that tried to compute numbers from the computations provided by the creditors' committee.

THE COURT: Was further time requested?

MR. SUPPLE: No, it was not, your Honor.

THE COURT: Wouldn't that have been the appropriate procedure?

MR. SUPPLE: May I say this: Mr. Evans was most insistant that there be a recess for the purpose of doing this, and he was denied that recess.

THE COURT: Not according to your adversary he wasn't; he was given the recess.

MR. SUPPLE: He was given the recess --

THE COURT: He said the Judge would have given him all afternoon if he wanted it.

MR. SUPPLE: Your Honor, he was given a recess, but he was not given an adjournment, is what I should have said. This is what he was seeking in order to go through these claims properly.

Your Honor, the essence of this is the only claims which may vote, in effect, are allowed claims. Filing isn't the essential. Receipt isn't the essential. There is an allowance of claims. And the claims allowed by the Court were the claims filed.

THE COURT: Filed without objection?

MR. SUPPLE: That's right. Those were the claims.

THE COURT: Were there any claims filed with objection?

MR. SUPPLE: Not that I'm aware of, your Honor.

THE COURT: Well, if they were filed and there is no objection, then they were allowed, right?

MR. SUPPLE: But these three claims, your Honor, were not filed.

Now, this question of their being in Mr. Krick's pocket, but not actually filed --

THE COURT: Why didn't you subpoena Mr. Krick in here and have him testify? He was present; he was the attorney. Make him your witness, and say "Look, weren't these claims in your pocket? You never actually filed them at the time, had you?"

And if he says "No, I hadn't", then you might have something to hang your hat on.

MR. SUPPLE: Well, your Honor, it is my understanding -- and Mr. Miller, I'm sure can correct me if I'm wrong -- I believe that under the new rules covering appeals from the Bankruptcy Court to the District Court, we may not bring in new matters.

I will defer to Mr. Miller in that respect, but that is my understanding, that we are not permitted to bring in new matters on appeals to the District Court.

Your Honor, my point is this: The Court allowed the filed claims --

THE COURT: Unobjected to filed claims.

MR. SUPPLE: Unobjected to filed claims, yes, your Honor.

Now, the reference has been made to the case of T. M. Systems, Inc., a holding by Judge Trevethan -- which incidentally, Mr. Brownstein, I had run across previously; it is in C.C.H.

The case, in my opinion, is bad law. It may be good equity, in that particular case, because there what was involved was not a question of voting acceptance of a plan; what was involved there was an attempt by the debtor to disallow the claims because they had not been filed in time with the Court. But, they had in fact been delivered to counsel for the creditors' committee.

One was filed a day late, and the other was filed several days late.

The Court goes through strange argument in order to reach an equitable result.

THE COURT: What is your claim here, aside from that claim, that each case has its own posture -- in this claim here, do you claim that counsel for the corporation, who is present here in court, did something or certified to something that was improper and untruthful or false at the time he made

this representation to the Bankruptcy Judge?

MR. SUPPLE: I am saying, your Honor --

THE COURT: More specifically, Mr. Brownstein?

MR. SUPPLE: Mr. Brownstein has represented to the Court that he reviewed the Court's record at this date, and this date is December 20th, and that the computations that were followed were obtained from a review of the Court's record. And, obviously, your Honor, if these had not been filed, -- and he has just stated they had not been filed with the Court; they were not in the Court's record -- where they were he hasn't stated -- but they were not in the Court's record. And this is what Mr. Evans relied upon. And this is what the Court relied upon.

Your Honor --

THE COURT: You claim he made a false representation then? Is that your claim?

MR. SUPPLE: No, your Honor, I don't think this is an intentionally false misrepresentation. I don't think that it was intended as that. I don't think it accorded with the precise language of the form that was used, but it was a representation --

THE COURT: May I see that document, the form that was used?

I think that file now, Counselor, ought to be returned to the Clerk, because counsel is getting out other papers, and pretty soon we will have a confused file if we get those mixed up.

Was the affidavit in the file?

MR. SUPPLE: I could not find it, your Honor -- he could not find it.

THE COURT: In fact, this entire file, parts of it, that may still be in the Clerk's office. This is the part that I received, and we will ask for a complete file up there, if there is some other paper that is not there. I am not certain.

Now, where is this specific error in this document, Counselor, that you claim constituted an improper representation?

MR. SUPPLE: Your Honor, if you will refer to, I believe it would be Exhibit 1, you will find a listing of Class I creditors accepting.

THE COURT: I have that.

MR. SUPPLE: Now, right near the bottom, I think you will find a Mitsubishi claim, and you'll find a Serico claim.

THE COURT: Yes.

MR. SUPPLE: These claims, admittedly by counsel for the appellees, were not even stamped

"received" until December 23rd.

THE COURT: Wasn't this document before the Court at that time, in its present form? This document?

MR. SUPPLE: This document, as I understand it, was before the Court on December 20th, yes, your Honor.

THE COURT: Did Mr. Evans object to this representation, that this document had not been properly filed at that time?

MR. SUPPLE: No, your Honor, Mr. Evans was relying on the representation of counsel.

THE COURT: And counsel represented today, in his argument, that they were on file, but they hadn't been stamped.

Now, who are you going to believe? That the clerical stamping had not been completed.

MR. SUPPLE: Your Honor, all I can look at are the records that are here, your Honor, and the stamp is December 23rd.

Now, there is a distinction between receiving and being filed. When it is received, it is stamped; they don't sit around waiting for stamping.

THE COURT: They shouldn't.

MR. SUPPLE: They shouldn't, your Honor.

THE COURT: The question is, he said it was done, and it was on file, and it hadn't been stamped.

MR. SUPPLE: Your Honor, as a matter of fact, there are two stamps used, because claims that are received are not necessarily filable.

The Peters claim is an example. It was delivered to the Court on December 5th, the 241 claim. And it was returned -- the source of my information is the discussion with the Clerk of the Bankruptcy Court.

THE COURT: "Class II creditors voting in favor, 37. Not voting in favor, 6."

You challenge that? What should the vote have been?

MR. SUPPLE: Class II, your Honor?

THE COURT: Yes.

MR. SUPPLE: No, we are not challenging Class II, the voting in the Class II creditors on this, your Honor.

THE COURT: All right.

What was the vote in Class I, and what should it have been?

MR. SUPPLE: Your Honor, it is the appellant's intention that the Mitsubishi claim, the Serico

claim, the Peters claim, should not have been voted, since they were not allowed. They were not allowed because they were not filed. And the Court allowed the filed claims.

So we would reduce the affirmative vote, or the approval -- the acceptance, I should say -- by three.

I believe that would bring it down to 38.

THE COURT: On the sheet it says Class I creditors, total entitled to vote, 45. Voting in favor, 32. Voting not in favor, 13.

MR. SUPPLE: That was corrected, your Honor, because they found duplication -- in fact, on the document that you have I believe you will find some strike outs. I think there should be an additional strike out, because there are two Sericos --

THE COURT: What should the correct final vote have been?

MR. SUPPLE: It is our contention that the correct final voting should have been 27. My understanding is that the appellees take the position it should have been 30.

THE COURT: And the number not voting in favor?

MR. SUPPLE: 13. And we are agreed on that.

THE COURT: And what would be the final result, based upon the vote that you claim?

MR. SUPPLE: Approximately 21,000 approving, and approximately 26,000 not approving -- not accepting.

THE COURT: All right.

MR. SUPPLE: Your Honor, going back to the T. M. Systems case, I point out that there the Court relied on Rule 509 -- I think it is now Rule 11-33(d).

In substance, the rule provides that if a paper is mis-delivered to certain specifically named officers, the Court or anybody else in connection with the bankruptcy, or arrangement proceedings, upon order of the Court, the document may be deemed filed as of the date of original delivery.

That section does not refer to a counsel for a creditors' committee, but in any event it does require an order of the Court.

There has been no order entered in the ALRAC matter. And there is a very basic distinction between the ALRAC matter and the T. M. Systems, Inc. case.

Your Honor, Mr. Brownstein, I believe, or Mr. Miller made reference to Section 207 -- not by number, but saying that claims filed, if not objected to, were allowed for voting purposes.

Well, he failed to advise the Court that sub-division (d) of that section contains an exception to this general rule. And one of the exceptions are claims filed by officers of the corporation.

And I bring to your attention that Mr. Peters was the Vice-President in charge of marketing of ALRAC, the debtor.

THE COURT: What does the rule apply as to officers filing claims?

MR. SUPPLE: All right. Rule 207: "Creditors excluded from voting. The following creditors shall not be entitled to vote: A director or a trustee or a stockholder, a member or officer of the bankrupt corporation."

I also point out, your Honor, that Barnes' testimony as to the lack of unanimity at the April 15th Director's meeting of ALRAC Corporation was not controverted; it was not refuted.

Your Honor, at Page 18 of the transcript of December 20th, you will find a direction by Judge

Seidman: "I declare the first meeting of creditors closed."

Your Honor, the remainder of my responsive remarks are contained in the rebuttal that I have asked the Court for permission to file. And I ask if Mr. Brownstein, or the appellees, have been able to find the affidavit of Mr. Wolfe, to which reference has been made, I think that is a matter which goes personally to the appellants.

May I ask Mr. Brownstein if he has identified it for the record?

MR. BROWNSTEIN: Yes, the affidavit is part of the record, if your Honor pleases. My files are so voluminous that I couldn't possibly bring them all with me today.

MR. SUPPLE: May I request then that the Court take note of that affidavit? I will try to find it in the Court's records also.

Thank you.

THE COURT: How much time do you need to compile your brief, Counselor?

MR. SUPPLE: Your Honor, I can have this to you -- may I say next Monday?

THE COURT: Any objection to Monday?

MR. BROWNSTEIN: No, your Honor.

THE COURT: All right.

MR. SUPPLE: Thank you very much, your Honor.

THE COURT: Do you have anything new, Counselor?

MR. MILLER: If I may, your Honor, I would like to refer to Mr. Supple's reference to Rule 207(d), which he just read to your Honor, for the proposition that an officer of a bankrupt corporation cannot vote for or against the plan if he is a creditor.

That rule, your Honor, is modified by Rule 11-28, sub-b, which says that in Chapter XI proceedings Bankruptcy Rule 207 applies only to the extent of voting for a standby trustee, and a creditors' committee.

It does not preclude an officer of a bankrupt corporation or a debtor corporation for voting in favor of a Chapter XI plan.

Now, in connection with Mr. Peters' claim, I have to reiterate, your Honor, that notwithstanding all the pyrotechnics that Mr. Supple has used, it is still undisputable that each of those creditors, whose names he objects to, voted in favor of the plan. Maybe the vote was too late, as he claims. But, they voted in favor,

so what is he arguing is a technicality, as your Honor pointed out this morning.

I would refer your Honor to Section 57(d) of the Bankruptcy Act, which states that claims which have been duly proved shall be allowed upon receipt -- receipt by, or upon presentation to the Court.

It is fairly standard practice, your Honor, that creditors can attend a meeting held before the Bankruptcy Court and have a proof of claim in their hands, and be able to vote that claim without any stamp appearing on that claim.

Indeed, that is the usual practice at the first meeting of creditors. Either the creditors come in or their duly designated representative c[illegible] in, and he votes those claims, holding them in his hand. And there is no stamp on those claims at that point in time.

What happened on December 20th, 1974, which was the adjourned hearing to consider the plan, is that Mr. Krick had the claims; the claims were on the counsel table. Mr. Barnes was given as much time as he wanted -- he told Judge Seidman, or his attorney told Judge Seidman "I have had enough time; I am ready to go back on the record."

We went back on the record, and his attorney said there have been some duplications, but it doesn't change the result. The plan had been accepted by Class I creditors, Class II creditors, and Class III creditors, unanimously.

Every opportunity was afforded to Dr. Barnes. He didn't ask for more time.

In accordance with the Bankruptcy Act, it wasn't necessary that any stamp be on those claims. Nevertheless, your Honor, the Peters claim does bear a received stamp, December 5, 1974, and including the Peters claim, voting in favor of the plan, there was an acceptance by a majority in number and amount as to Class I.

I therefore submit to your Honor that the arguments which Mr. Supple has made in his reply, or rebuttal argument, don't carry any water at all, your Honor.

MR. BROWNSTEIN: May I take one moment of the Court's time?

THE COURT: I suppose we could continue ad infinitum.

MR. BROWNSTEIN: I don't intend that at all, but I have been personally attacked, and my integrity is on the line. I would like to explain

that, if your Honor pleases.

THE COURT: All right.

MR. BROWNSTEIN: The statement made that I did not intentionally make a false representation was said here. I have appeared before your Honor on many occasions in the past, and I intend to in the future, as the occasion may allow.

I have made no false representations of any sort whatsoever. The language "the undersigned having reviewed the Court records as of this date" -- my brother would have us read that in the most technical fashion imaginable. What I was talking about, and what I intended, was as to claims filed and in the process of being filed. They were there with us at the counsel table that day. That's all that was ever intended by it, if your Honor pleases.

THE COURT: Very well. Thank you, gentlemen.

MR. SUPPLE: Thank you very much, your Honor, for permitting my appearance here today.

THE COURT: Adjourn court, Mr. Bailiff.

(Whereupon the hearing was concluded.)

RULING ON APPEAL

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

In re	:	
	:	
ALRAC CORPORATION,	:	Bankruptcy No.
	:	74 B-399
Debtor.	:	
	:	
	:	
CARL E. BARNES,	:	
	:	
Appellant	:	
	:	
-vs-	:	
	:	
ALRAC CORPORATION,	:	
	:	
Debtor-Appellee	:	

RULING ON APPEAL FROM ORDERS
OF THE BANKRUPTCY JUDGE

This case comes before the Court, pursuant to Bankruptcy Act § 39c, 11 U.S.C. § 67(c), and Bankruptcy Rules 801 through 814 and 11-62, on appeal from two orders of the bankruptcy judge concerning the appellee Alrac Corporation.[1] On December 30, 1974, the bankruptcy judge dismissed the petition of Carl E. Barnes and Sarah E. Barnes to convert the pending arrangement of Alrac's debts under Chapter XI of the Bankruptcy Act to a corporate reorganization under Chapter X. On December 31, 1974, and by amendment dated January 22, 1975, the bankruptcy judge confirmed the amended plan of arrangement dated December 26, 1974, finding said plan to be feasible and in the best interests of the creditors of Alrac.

After reviewing the entire record and all relevant papers on file, this Court finds that the bankruptcy judge made no "clearly erroneous" findings of fact, Bankruptcy Rule 810, and did not abuse his discretion in denying conversion to Chapter X and confirming the plan of arrangement. The orders appealed from are accordingly affirmed.

Facts

Appellant Carl E. Barnes, a research chemist, was the president and chief executive officer of Alrac. The present Alrac Corporation evolved, through an intervening merger with another corporation, from a company originally founded by Barnes in 1968 to hold and develop basic patents covering a product called "Nylon-4." At the time the bankruptcy judge entered the challenged orders, Alrac Corporation was made up of approximately 1,500 shareholders, holding roughly 1,043,056 shares of outstanding stock, having a market value per share of between six and twelve cents. The indebtedness of Alrac was as follows:

(1) Trade creditors, $733,619.11;

(2) Short term notes, $1,277,224.89, and senior convertible 8-1/2 per cent notes, $682,973.38;

(3) Convertible subordinated 7-1/2 per cent debentures, $2,215,000.

All of the aforesaid indebtedness was in default, and Alrac

did not have sufficient liquid funds available even to pay the current licensing costs for its patents. Alrac's balance sheet as of April 30, 1974 described assets of $356,556, and liabilities of $5,570,084.

The appellant Carl E. Barnes is the largest single stockholder of Alrac, owning approximately 209,000 shares, or roughly one-fifth of the outstanding stock. The other appellant, Sarah E. Barnes, his wife, has a claim against Alrac in excess of $74,000, evidenced by promissory notes. Both appellants have a contingent claim against Alrac approximating $400,000, as guarantors of an obligation of Alrac to the Hartford National Bank.

On August 12, 1974, after resigning two of his corporate offices and being removed from the third, appellant Barnes and two other creditors filed an involuntary petition in bankruptcy against Alrac; on August 20, 1974, the corporation countered with a petition pursuant to Bankruptcy Act § 321, 11 U.S.C. § 721, for an arrangement under Chapter XI. Barnes now claims that he thought he was initially applying for a corporate reorganization under Chapter X, and that his involuntary petition under Chapter VII was an inadvertent mistake. The bankruptcy judge proceeded under Alrac's Chapter XI petition, and authorized the corporation to manage its property as a debtor in possession.

Upon application by Alrac, and after a duly noticed

hearing at which Barnes appeared and objected, the bankruptcy judge granted Alrac permission to enter into certain agreements with the Chevron Research Company and Chevron Chemical Company, the substance of which had been negotiated prior to the inception of bankruptcy proceedings. In summary, the agreements called for Alrac to license or convey its Nylon-4 patents to Chevron, and to provide Chevron with research and consulting services, in return for payments that would total at least $8,770,000 by the year 1990 unless the agreements were terminated pursuant to rights reserved by the parties. All the agreements could be terminated by Chevron if a plan of arrangement under Chapter XI was not confirmed on or before December 31, 1974. The bankruptcy judge concluded that without these agreements, the Alrac Corporation could not have continued operations, because of lack of funds.

The bankruptcy judge's order of confirmation, entered on December 31, 1974, approved the sale and transfer of Alrac's Nylon-4 patents to Chevron. The appellants herein made no application pursuant to Bankruptcy Rule 805 for a stay of the order, a supersedeas bond or any other relief pending appeal. Thus the outcome of this appeal cannot affect the sale of patents to Chevron, since Bankruptcy Rule 11-62 provides that in appeals from orders entered in proceedings under Chapter XI:

> "Unless an order approving a sale of property or issuance of a certificate of indebtedness is stayed pending appeal, the sale to a good faith purchaser or the issuance of a certificate to a

> good faith holder shall not be affected by the reversal or modification of such order on appeal whether or not the purchaser or holder knows of the pendency of the appeal."

The Appellants' Claims

The appellants claim that the plan of arrangement confirmed by the bankruptcy judge, since it approved the sale of the Nylon-4 patents to Chevron, will permanently deprive Alrac of its principal valuable assets. They are of the opinion that Alrac could become a viable company, because they believe that the patents are extremely valuable, and they contend that the corporation could be rehabilitated only through the procedures provided under Chapter X.

The appellants assert that the plan of arrangement under Chapter XI itself involves a substantial adjustment of Alrac's financial structure, in addition to adjustment of the rights of both secured and unsecured creditors; they argue that such a corporate overhaul can be obtained only under Chapter X. The appellants also claim that the arrangement thwarts the purposes of the Bankruptcy Act by substantially affecting the rights of public debenture holders, without affording them the "fair and equitable" treatment available under Chapter X.

As the major stockholder of Alrac, appellant Carl E. Barnes contends that he will be injured by having his stock

watered as a result of the issuance of 1,500,000 additional shares of Alrac stock to the holders of the corporation's notes and debentures, pursuant to the plan.

In addition, the appellants argue that there should be an investigation of Alrac by an independent trustee, as provided in Chapter X, covering the management of the corporation since Carl E. Barnes ceased to be an officer, and scrutinizing in detail the negotiations between Chevron and Alrac, and the relationship between Alrac's principal officers and Chevron. Although he signed the original agreements with Chevron prior to the bankruptcy, when he was Alrac's president, appellant Carl E. Barnes now claims he was deceived into doing so and signed under protest.

The appellants also object to the bankruptcy judge's approval of the classification of creditors in the plan of arrangement, contending that the treatment of their $400,000 contingent liability as guarantors of Alrac's debt to the Hartford National Bank in said classifications improperly disqualified them from voting that claim in the polling of creditors to determine approval of the plan.

The Standard for Review

This Court's review of an order of the bankruptcy judge is limited in scope. The bankruptcy judge's findings of fact will be affirmed unless they are "clearly erroneous,"

as provided in Bankruptcy Rule 810:

> "The court shall accept the [bankruptcy judge's] findings of fact unless they are clearly erroneous, and shall give due regard to the opportunity of the [bankruptcy judge] to judge the credibility of the witnesses."

See also, In re Melnick, 360 F.2d 918, 920 (2d Cir. 1966); Simon v. Agar, 299 F.2d 853 (2d Cir. 1962); In re Tabibian, 289 F.2d 793, 795 (2d Cir. 1961); In re Slocum, 22 F.2d 282, 286 (2d Cir. 1927); In re Steinberg, 143 F.2d 942 (2d Cir. 1944); Stim v. Simon, 284 F.2d 58 (2d Cir. 1960); In re Di Palo, 218 F.2d 816 (2d Cir. 1955).

The bankruptcy judge has considerable discretion in making orders such as those appealed herein. "[C]ourts of bankruptcy are essentially courts of equity, and their proceedings inherently proceedings in equity." Local Loan Co. v. Hunt, 292 U.S. 234, 240 (1934). Since the issuance of equity relief is a matter of discretion, Berman v. Narragansett Racing Association, 48 F.R.D. 333, 336 (D.R.I. 1969), therefore

> "[t]he scope of our review is accordingly limited to a determination of whether there was an abuse of said discretion by . . . the [bankruptcy judge]. . . ." Time Oil Company v. Wolverton, 491 F.2d 361, 365 (9th Cir. 1974).

See also, Lemon v. Kurtzman, 411 U.S. 192, 200 (1973). In addition, this Court is not unmindful that it may exercise

"some degree of judicial restraint in regard for the expertise" of the bankruptcy judge. Olympic Finance Co. v. Thyret, 337 F.2d 62, 68 (9th Cir. 1964).

Conclusion

The Court has carefully reviewed all of the transcripts of testimony given before the bankruptcy judge, the voluminous record in its entirety (including the correspondence from the Securities Exchange Commission, see Bankruptcy Act § 328, 11 U.S.C. § 728), and all other relevant papers filed in this appeal; the Court has also studied the memoranda and briefs of counsel. The Court is of the opinion, and so finds: (1) that the bankruptcy judge made no "clearly erroneous" findings of fact; (2) that the bankruptcy judge did not abuse his discretion in denying the petition to transfer the proceeding from Chapter XI to Chapter X; and (3) that the bankruptcy judge did not abuse his discretion in confirming the plan of arrangement. Accordingly, it is

ORDERED, that the said appeals are denied and dismissed, for the same reasons set forth in the well-considered and reasoned memoranda of the bankruptcy judge dated December 30, 1974 and December 31, 1974, as amended January 22, 1975; and it is further

ORDERED, that said orders of the bankruptcy judge are hereby affirmed.

Dated at Hartford, Connecticut, this 9th day of February, 1976.

T. Emmet Clarie
Chief Judge

FOOTNOTES

1/ William A. Clement and Simon Mickler also appealed the bankruptcy judge's order of October 22, 1975, as amended December 29, 1975, restraining them from pursuing and prosecuting an action then pending in the State Superior Court, Clement et al v. Wolfe, et al, wherein they sought to prevent the calling of an annual meeting of shareholders of Alrac, until the appeal of Carl E. Barnes and Sarah E. Barnes from the order of the bankruptcy judge dated December 31, 1974, confirming the arrangement, has been finally determined. This appeal of Clement and Mickler was withdrawn by the appellants on December 29, 1975.

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JUDGMENT

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

In re ALRAC CORPORATION, Debtor	BANKRUPTCY NO. 74-B-399
CARL E. BARNES, Appellant vs. ALRAC CORPORATION, Debtor-Appellee	

JUDGMENT

The above-entitled matter came on for consideration by the Court by the Honorable T. Emmet Clarie, Chief United States District Court;

And after a full hearing and after careful consideration of the entire record and all relevant papers submitted, the Court filed its Memorandum of Decision affirming the Orders of the bankruptcy court, denying and dismissing the appeals therefrom;

It is accordingly ORDERED and ADJUDGED that the Orders of the said bankruptcy court be and are hereby affirmed in accordance with the opinion of this Court and the aforesaid appeals be and are hereby dismissed.

Dated at Hartford, Connecticut, this 20th day of February, 1976.

SYLVESTER A. MARKOWSKI
Clerk, United States District Court

By: _____
Deputy-In-Charge